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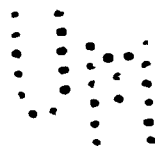


**INTERSTATE COMMERCE COMMISSION REPORTS**

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**VOLUME 48**

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**DECISIONS OF THE**

**INTERSTATE COMMERCE COMMISSION**

**OF THE UNITED STATES**

**DECEMBER, 1917, TO FEBRUARY, 1918**

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**REPORTED BY THE COMMISSION**

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**INTERSTATE COMMERCE COMMISSION.**

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**48 I. C. C.**

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# INTERSTATE COMMERCE COMMISSION REPORTS.

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No. 8231.

AMERICAN SAND & GRAVEL COMPANY ET AL.

v.

CHICAGO & NORTH WESTERN RAILWAY COMPANY  
ET AL.

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*Submitted January 27, 1916. Decided December 20, 1917.*

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Rates on sand and gravel, in carloads, from points on defendants' lines in northern Illinois to destinations in the state of Wisconsin not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

*Walter E. McCornack* for complainants.

*C. C. Wright, R. H. Widdicombe, O. W. Dynes, and J. N. Davis* for defendants.

*A. F. Cleveland* for Chicago & North Western Railway Company.

## REPORT OF THE COMMISSION.

### BY THE COMMISSION:

Complainants are corporations engaged in the sand and gravel business at Carpentersville, Algonquin, Cary, Crystal Lake, Elgin, Spring Grove, Spaulding, Fox Lake, and Libertyville, Ill. By complaint, filed August 16, 1915, they allege that defendants' rates for the transportation of sand and gravel, in carloads, from the above-named points to numerous destinations in Wisconsin are unreasonable and unduly prejudicial to complainants and unduly preferential of competitors located at Beloit and Janesville, Wis. Reasonable and nondiscriminatory rates for the future are asked. Rates are stated in cents per 100 pounds.

The points of origin are located on defendants' lines in northern Illinois, five on the Chicago & North Western Railway and four on the Chicago, Milwaukee & St. Paul Railway. Rates on sand and gravel from stations on defendants' lines to Chicago are made on a zone basis. Points in northern Illinois, including those here concerned, are grouped in what is known as the inner zone, an average distance of 45 miles; points in Wisconsin in general, including Beloit and Janesville, are in the outer zone, an average dis-

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The points of origin are located on defendants' lines in northern Illinois, five on the Chicago & North Western Railway and four on the Chicago, Milwaukee & St. Paul Railway. Rates on sand and gravel from stations on defendants' lines to Chicago are made on a zone basis. Points in northern Illinois, including those here concerned, are grouped in what is known as the inner zone, an average distance of 45 miles; points in Wisconsin in general, including Beloit and Janesville, are in the outer zone, an average dis-

tance of 90 miles, and take a rate of  $1\frac{1}{2}$  cents to Chicago. For many years the carriers have maintained a differential on this traffic from the outer zone of one-fourth cent over that from the inner zone. The carriers have at different times attempted to increase the rates from these zones to Chicago as well as to increase the differential, but we have in each instance held that the proposed increase in the differential was not justified. *In re Transportation of Sand and Gravel*, 24 I. C. C., 249; *Sand and Gravel Rates from Wisconsin Points to Chicago, Ill.*, 34 I. C. C., 467.

It is contended for complainants that, in view of the existing situation southbound, the zone basis should be established on traffic northbound to Wisconsin points, and urged that the following rates would be reasonable and nondiscriminatory: Where the difference in the distances to said destinations from complainants' shipping points and from Beloit and Janesville is substantially the same as the difference in the distances to Chicago from the Illinois points and from the Wisconsin points, the differential northbound should not exceed one-fourth cent; where there is substantially no difference in distance complainants should have the same rates as apply from Wisconsin points for corresponding distances. At the hearing it was also contended that this basis should be extended so as to give complainants a differential of one-fourth cent over the Wisconsin producing point nearest to the point of destination. For instance, the rate from Waukesha to Milwaukee, Wis., a distance of 19.6 miles, is 1.5 cents under the Wisconsin distance scale. Complainants ask for a rate of 1.75 cents to Milwaukee from points in northern Illinois, notwithstanding the fact that the average distance is approximately 85 miles. The rates to Milwaukee from Beloit and Janesville for respective distances of 85 miles and 71 miles are 2.5 cents. These are commodity rates, which are slightly less than the Wisconsin distance scale referred to later. The establishment of a differential as suggested would result in many fourth section departures. As an alternative it is suggested for complainants that in order to bring about a more satisfactory adjustment of sand and gravel rates in this territory the outer zones' differential on traffic to Chicago should be increased.

The rates on sand and gravel between points in Wisconsin are based on the distance scale prescribed by the Wisconsin Railroad Commission or are commodity rates which are lower. At the time of hearing rates from complainants' pits to points in Wisconsin were Class E, or distance commodity rates, and average from  $1\frac{1}{2}$  cents to 5 cents higher than the rates to the same destinations from Wisconsin points. Complainants' witness testified that about 90 per cent of their ship-

ments moved to Chicago, the other 10 per cent to near-by points in Illinois. Practically no sand or gravel moves from these inner zone points to destinations in Wisconsin, and it was admitted at the hearing that the real object of this complaint is to open up the Wisconsin market to sand and gravel pits in the inner zone. It is stated that 40 per cent of the sand and gravel produced in Wisconsin moves to Chicago, the remainder to Wisconsin destinations.

Complainants' evidence consisted mainly of exhibits in which the rates from the Illinois points are compared with the rates from Beloit, Janesville, and Waukesha to various destinations in Wisconsin. In a number of instances the class E rates were used when there were commodity rates in effect. Effective May 18, 1917, the Chicago & North Western published a new scale of distance commodity rates from points in Illinois to destinations in Wisconsin, which in general is substantially the same as the Wisconsin distance scale. The following table shows the distances and present rates from the points of origin in question to Milwaukee, a representative destination; also the rates applicable under the Wisconsin scale for similar distances:

To Milwaukee from—	Distance.	Present rate.	Rates for similar distances under Wisconsin scale.
	<i>Miles.</i>	<i>Cents.</i>	<i>Cents.</i>
Spanning <sup>1</sup> .....	109	4	3
Libertyville <sup>1</sup> .....	56.3	3	2.3
Fox Lake <sup>1</sup> .....	70.4	4	2.47
Spring Grove <sup>1</sup> .....	74.6	4	2.54
Algonquin <sup>2</sup> .....	85.4	2.68	2.68
Carpentersville <sup>2</sup> .....	89.8	2.75	2.75
Elgin <sup>2</sup> .....	98.7	2.9	2.9
Cary <sup>2</sup> .....	84.3	2.68	2.68
Crystal Lake <sup>2</sup> .....	79.7	2.61	2.61

<sup>1</sup> On the Chicago, Milwaukee & St. Paul Railway.

<sup>2</sup> On the Chicago & North Western Railway.

The zone system and the differential of one-fourth cent referred to apply only in connection with traffic to Chicago and Chicago rate points. It is contended for defendants that the rates to Chicago are very low and are compelled by transportation and commercial competition, and that there are no transportation or commercial reasons apparent for the establishment of zones in connection with the movement of this traffic to Wisconsin destinations. It is further urged that leaving out of consideration the rates to Chicago and Chicago rate points, which, it is asserted, bear no relation to the rates to other Illinois points, the sand and gravel producers in Illinois can ship their products to points in Wisconsin at rates lower on the average than those applicable on sand and gravel shipped from Wisconsin points

to points in Illinois. To support this contention, an exhibit was filed which shows that from four of the Illinois points of origin to representative destinations in Wisconsin the average distance is 85.7 miles and the average rate 4.93 cents, whereas from the Wisconsin points shown therein to a number of destinations in Illinois, not including Chicago, the average distance is 86.1 miles and the average rate 5.87 cents. The transportation and commercial competition which governs the rates and the present differential on sand and gravel to Chicago are not shown to exist with respect to the movement of these commodities to any points in Wisconsin.

Upon consideration of all the facts of record we are of opinion and find that the rates assailed have not been shown to be unreasonable or unduly prejudicial. An order dismissing the complaint will be entered.

48 I. C. C.

No. 8942.  
LIBBY LUMBER COMPANY  
v.  
GREAT NORTHERN RAILWAY COMPANY.

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*Submitted April 13, 1917. Decided December 20, 1917.*

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Upon complaint attacking the relationship of the rates on lumber, in carloads, from Libby, Mont., and from Columbia Falls and other Montana points, and Bonners Ferry, Idaho, to points on defendant's line in Montana as unduly prejudicial to Libby and unduly preferential of the other points named; *Held*:

1. That, except as between Libby and Bonners Ferry, the relationship complained of is not subject to our jurisdiction.
2. That the relationship between the rates from Libby and from Bonners Ferry does not unduly prejudice Libby or unduly prefer Bonners Ferry. Complaint dismissed.

*Albert J. Galen* for complainant.

*Clapp & Macartney* for Bonners Ferry Lumber Company; *Ernest E. Watson* for State Lumber Company; *Norris & Hurd* for Eureka Lumber Company; and *E. M. Fronk* for Western Red Cedar Association, interveners.

*John F. Finerty* for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of lumber at Libby, Mont. By complaint, filed May 24, 1916, as amended, it alleges that the relationship of the rates on lumber, in carloads, from Libby, and from Columbia Falls, Kalispell, and Somers, Mont., and Bonners Ferry, Idaho, to points on defendant's line in Montana, is unduly prejudicial to Libby and unduly preferential of the other points named at which complainant's competitors are located. The Bonners Ferry Lumber Company, Eureka Lumber Company, and State Lumber Company, corporations engaged in milling lumber at Bonners Ferry, Eureka, Mont., and Columbia Falls, respectively, and the Western Red Cedar Association, a voluntary organization of shippers of certain forest products, located at Spokane, Wash., intervened to protect their interests in any readjustment of rates which might be ordered. Rates are stated in cents per 100 pounds.

In *Bonnors Ferry Lumber Co. v. G. N. Ry. Co.*, 38 I. C. C., 268; 39 I. C. C., 568, we found that the rates then in effect on lumber from Bonners Ferry to points on defendant's line in Montana east of Dunkirk and south of Naismith were reasonable, and that the maintenance of rates from Columbia Falls and grouped points, including Kalispell and Somers, 7 cents less than the rates from Bonners Ferry to the same destinations was not unjustly discriminatory, but that the then existing adjustment of rates from Bonners Ferry and from Libby and Eureka to the same destinations unjustly discriminated against Bonners Ferry to the extent that the rates from the latter point exceeded the rates from Libby and Eureka by more than 2 cents and 4.5 cents, respectively. Rates have since been established on that basis. Complainant was not a party to the *Bonnors Ferry Case*, but it was instrumental in procuring the filing by the Board of Railroad Commissioners of the state of Montana of a petition for rehearing, which, together with a petition of the Eureka Lumber Company, resulted in the reconsideration of the case and the supplemental report issued therein.

It is contended on complainant's behalf that the differential between the rates from Libby and from Bonners Ferry should be increased from 2 cents to at least 3 cents and that the 5-cent differential between the rates from Libby and from Columbia Falls should be materially lessened.

In the *Bonnors Ferry Case* our jurisdiction over the intrastate rates arose out of their relationship to the interstate rates from Bonners Ferry, and our finding in that case incidentally resulted in fixing maximum differentials between the rates from Libby, Eureka, and Columbia Falls; but that case has not been reopened and the present complaint presents no issue with respect to the relationship between interstate and intrastate rates except those from Bonners Ferry and Libby. The relationship between the rates from Libby and from Columbia Falls to Montana destinations, so long as the differentials between the rates from those points do not exceed those incidentally prescribed in the *Bonnors Ferry Case*, is a matter not subject to our jurisdiction.

There remains for consideration only the attack upon the relationship between the rates from Bonners Ferry and from Libby. Most of complainant's evidence was directed to the relationship between the rates from Montana producing points. Considerable stress was laid upon the fact that Libby is a local point on defendant's line, while Bonners Ferry is served by two other roads and is therefore in a more advantageous position in marketing its products. But if Libby is subjected to any such disadvantage, we are without power to

require its removal through a readjustment of rates. It is also contended that the fact that all of complainant's switching to and from defendant's spur at Libby is done by complainant, without an allowance therefor, should be reflected in the rates from Libby, but the record does not show the situation with respect to switching at Bonners Ferry.

In the *Bonners Ferry Case* we found that the average distances from Bonners Ferry and Libby to 32 representative Montana points, including Havre and Great Falls, were 514 miles and 464 miles, respectively, and the average rate from Bonners Ferry 23.5 cents. This rate for a distance of 514 miles would produce ton-mile earnings of 9.14 mills. A rate from Libby 2 cents less, or 21.5 cents, for a distance of 464 miles, would produce ton-mile earnings of 9.26 mills; and a rate of 3 cents less than from Bonners Ferry, or 20.5 cents, 8.84 mills. It will be seen, therefore, that rates from Libby 3 cents less than from Bonners Ferry would produce lower ton-mile earnings than under the rates from Bonners Ferry for a shorter distance; and it was testified that this same situation would result in connection with rates to most of the Montana destinations if we prescribe that differential. This record affords no basis for the approval of such an adjustment.

We find that the present relationship between the rates on lumber, in carloads, from Bonners Ferry and from Libby to the Montana destinations does not unduly prejudice Libby or unduly prefer Bonners Ferry, and the complaint will be dismissed. An order will be entered accordingly.

48 I. C. C.

No. 7122.  
**CASEY-HEDGES COMPANY ET AL.**  
*v.*  
**CINCINNATI, NEW ORLEANS & TEXAS PACIFIC  
RAILWAY COMPANY.**

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*Submitted February 16, 1917. Decided December 20, 1917.*

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Former finding that a rate of 23 cents per 100 pounds on certain iron and steel articles, in carloads, from Cincinnati, Ohio, to Chattanooga, Tenn., was, and for the future would be, unreasonable to the extent that it exceeded or might exceed 19 cents, minimum 36,000 pounds, affirmed on rehearing.

*J. B. Sizer* and *O. L. Bunn* for complainants.

*R. Walton Moore* and *Edward H. Hart* for defendant and Southern Railway Company; Nashville, Chattanooga & St. Louis Railway; Illinois Central Railroad Company; and Mobile & Ohio Railroad Company, interveners.

*William Burger* for Louisville & Nashville Railroad Company, intervener.

**REPORT OF THE COMMISSION ON REHEARING.**

**BY THE COMMISSION:**

In our original report herein, 39 I. C. C., 569, we found that defendant's rate of 23 cents per 100 pounds on various iron and steel articles, viz, boiler tubes, structural material, bar iron, bar steel, wrought-iron and steel pipe, iron and steel plates 16 gauge and heavier, and iron and steel rivets, in carloads, from Cincinnati, Ohio, to Chattanooga, Tenn., was unreasonable and prescribed for the future a maximum rate of 19 cents per 100 pounds, minimum 36,000 pounds. On October 3, 1916, the case was reopened at defendant's request, and the Southern and Nashville, Chattanooga & St. Louis railways and the Illinois Central, Mobile & Ohio, and Louisville & Nashville railroads were made parties defendant at their request. The rate prescribed is now in effect over the line of the original defendant, which is the short line from and to the points named. Rates are, except as otherwise indicated, stated in cents per 100 pounds.

This traffic also moves from Cincinnati to Chattanooga through Nashville, Tenn., over the Louisville & Nashville and the Nashville, Chattanooga & St. Louis, a distance of 448 miles, over which route the 23-cent rate still applies. In explanation of interveners' interest in the proceeding it is stated that a continuance of the 19-cent rate

48 I. C. C.

over the line of the original defendant will not only require that the carriers parties to the route through Nashville meet that rate if they are to participate in the traffic, but that as the rates to Chattanooga from the Ohio River crossings, Cincinnati to Cairo, Ill., inclusive, are and for many years have been the same, a 19-cent rate to Chattanooga will also require the establishment of that rate from such other crossings to Chattanooga. Defendants contend that the former record did not support a finding that the 23-cent rate was unreasonable; that subsequent to the date of the original hearing various changes were made in their rates in this territory, including a readjustment of rates, effective January 1, 1916, to numerous points in compliance with *Fourth Section Violations in the Southeast*, 30 I. C. C., 153; and that in view of changed conditions a different conclusion should now be reached.

In the original report we referred to the fact that the rate on special iron from Cincinnati to Nashville was 10 cents less than the corresponding sixth-class rate, which would have applied in the absence of the special iron rate, and while that same spread had existed between the special iron and sixth-class rates from Cincinnati to Chattanooga prior to March 10, 1900, the special iron rate to Chattanooga, when our report was rendered, was only 6 cents less than the corresponding sixth-class rate. It is urged for defendants that in prescribing such a relationship many embarrassing consequences will result and that there is no relation between either the class rates from Cincinnati to Nashville and Chattanooga, respectively, or between the sixth-class and special iron rates to these respective points. Under the readjustment referred to the sixth-class rate from Cincinnati to Nashville was increased from 25 to 26 cents and the special iron rate from 15 to 16 cents, while the sixth-class rate from Cincinnati to Chattanooga was increased from 29 to 33 cents. It is argued that if any significance attaches to the comparative level of these respective rates the difference between the respective special iron and sixth-class rates to both Nashville and Chattanooga is now 10 cents. It is a sufficient answer to this contention to state that in our original order we prescribed no relationship of rates but required the establishment of a specific maximum rate. The relative adjustment between the class rates and special iron rates at Nashville and Chattanooga was only one of a number of facts upon which we based our finding that the 23-cent rate was unreasonable. It may be observed in this connection that the present scale of class rates to Chattanooga, excepting the sixth-class rate, is identically the same as the scale in effect prior to the effective date of our order in *Receivers and Shippers Assn. v. C., N. O. & T. P. Ry. Co.*, 18 I. C. C., 440, but the present sixth-class rate is 3 cents higher than the sixth-class rate then in effect. The increase from 6 cents to 10 cents in the

spread between the sixth-class and special iron rates to Chattanooga is, therefore, the direct result of the increase in the sixth-class rate from 29 to 33 cents.

Our report also referred to rates then in effect from Cincinnati to Chattanooga of 15 cents on boiler iron and steel plates and 17 cents on plow steel. In the absence of specific commodity rates, these articles would take the special iron rates. Effective January 1, 1916, the 15-cent rates were canceled, leaving the 23-cent rate on special iron applicable in lieu thereof; and the 17-cent rate on agricultural implement iron or steel, which includes plow steel, was advanced to 19 cents. Subsequently the carriers sought to cancel the 19-cent rate and those schedules were suspended. For defendants it was stated that with the exception of the rates referred to, now under suspension, and the rates here in question, no specific commodity rates from Cincinnati to Chattanooga are now applicable on any articles embraced in the special iron list as defined in the classification. This is not supported by the record as it appears that specific commodity rates now apply from Cincinnati to Chattanooga on a number of articles embraced in that list, viz, \$3.50 per long ton, the equivalent of 15.6 cents per 100 pounds, on railway track material comprising various commodities; \$2.25 per net ton, or the equivalent of 11.2 cents per 100 pounds, on scrap iron or steel; and 18 cents on car building material, which comprises an extensive list of commodities.

The rates of 12 cents on bar iron and wrought-iron or steel plate; 15 cents on architectural iron or steel and iron or steel rivets; and 13½ cents on wrought-iron pipe, from Chattanooga to Cincinnati, referred to in our original report, are still in effect. The 15-cent rate mentioned applies not only on the commodities referred to in connection with the rate but also on an extensive list of manufactured iron articles. A rate of \$2.75 per long ton, or the equivalent of 12.3 cents per 100 pounds, also applies from Chattanooga to Cincinnati on blooms and billets, muck bars, slabs, and a number of other articles.

For many years the original defendant has generally observed the Cincinnati-Chattanooga rate as a maximum at intermediate points, but over the route through Nashville the rates to points intermediate to Chattanooga were and are higher than the rates to Chattanooga. Defendants now represent that while increases have been made in the class rates from the Ohio River crossings to Chattanooga, Birmingham, Ala., and Atlanta, Ga., in order to conform to *Fourth Section Violations in the Southeast, supra*, no increase has been made in the special iron rates from such crossings to those points, and that if a rate lower than 23 cents is required from Cincinnati to Chattanooga, reductions must be made in the rates from Cincinnati to points on the line of the Cincinnati, New Orleans & Texas Pacific Railway between

Chattanooga and Winfield, Tenn., 134 miles north of Chattanooga, including Harriman, Tenn.; in the rates to most points south of Nashville, intermediate to Chattanooga, on the route from Cincinnati through Nashville; and in the rates from the other crossings named to Chattanooga and numerous intermediate points, and likewise to points taking Chattanooga rates and the points intermediate thereto. Also, that a 19-cent rate to Chattanooga, in connection with the special iron rate out of that point, will result in combination rates to certain points in this territory lower than the existing joint rates to such points, the "cutting" of the joint rate from Cincinnati to Birmingham to the extent of 2 cents being particularly emphasized; that as the rate from Cincinnati to Atlanta may be no higher than the rate from Cincinnati to Birmingham, a reduction corresponding to the reduction in the Birmingham rate will therefore be required not only in the rate from the various crossings to Atlanta but to numerous points in the southeast to which rates are made with relation to the Atlanta rates. They contend that there is little or nothing in the original report to indicate that we intended in the last analysis to make an exception of the articles here in question, and that "it would seem that in substance the Commission's decision is one respecting special iron rates." They therefore feel that a reduction in the rates on these commodities will readily spread to the whole special iron list and conclude that a continuance of the 19-cent rate in question will destroy the adjustment of special iron rates in this territory.

We are unable to find upon the facts disclosed that defendants' apprehensions in this respect are justified. As has been shown, they have for years accorded specific commodity rates between Cincinnati and Chattanooga, both north and south bound, to various articles embraced in the special iron list. Complainants, as stated in the original report, seek merely to have the articles named removed from the list of articles taking special iron rates and given a lower specific rate, and we prescribed a lower rate only on those commodities. Defendants refer to the more delicate nature of the present adjustment, but we are not persuaded that on this account specific commodity rates may not be accorded to certain articles embraced in the special iron list. It furthermore appears that the movement of the commodities in question is chiefly to manufacturing centers, there being a heavy movement to Chattanooga, while the tonnage shipped to many of the points, at which it is apprehended reductions in the rates will be occasioned by the maintenance of a 19-cent rate to Chattanooga, is relatively inconsequential.

Complainants point out that the earnings per mile of the Cincinnati, New Orleans & Texas Pacific are materially in excess of those of the other defendants, and contrast the ton-mile earning of 13.7 mills accruing to that carrier under the 23-cent rate to Chattanooga, with

its average ton-mile revenue of 7.54 mills accruing on all traffic handled for the seven years, 1908-1914, inclusive. For defendants it is said that the lines of the carriers forming the route through Nashville must be equally considered with the short line. A rate of 19 cents will yield over the route through Nashville a ton-mile earning of 8.5 mills, which is higher than the average ton-mile earnings on all traffic of most of the defendants for the year 1914 and a number of years prior thereto. It is asserted that a comparison of the ton-mile earnings on the traffic in question with the average ton-mile earnings is not proper. But it would appear that a rate on this character of traffic yielding the above-stated earnings to lines forming a route 132 per cent of the short-line route may not be considered unduly low.

We find nothing in the entire record as now made to warrant a change in our original findings, and they are therefore affirmed.

As the 19-cent rate is now in effect over the line of the original defendant, no further order is deemed necessary.

48 I. C. C.

No. 8135.<sup>1</sup>

NAPPANEE LUMBER & MANUFACTURING COMPANY

v.

BALTIMORE & OHIO RAILROAD COMPANY ET AL.

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PORTION OF FOURTH SECTION APPLICATION No. 1605.

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*Submitted January 31, 1916. Decided January 14, 1918.*

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1. Rate applicable on silo material, in carloads, from Napanee, Ind., to La Grange, Ky., not shown to have been or to be unreasonable.
2. Rate applicable on silo material in less than carloads from Napanee to Arnold, Ky., found to have been unreasonable. Reparation awarded.
3. Rate on silo material, in carloads, from Napanee to Lancaster, Ky., not shown to have been or to be unreasonable.
4. Charges on silo material in less than carloads, from Napanee to Taylorsville, Ky., found unreasonable. Reparation awarded.

*Hal. H. Smith* for complainant.

*William C. Coleman* for Baltimore & Ohio Railroad Company and Baltimore & Ohio Southwestern Railroad Company.

*Ed. D. Mohr* for Louisville & Nashville Railroad Company.

#### REPORT OF THE COMMISSION.

##### BY THE COMMISSION:

These related proceedings, which were consolidated, were instituted by the same complainant, a corporation engaged in the manufacture of silos at Napanee, Ind. Reparation is asked in each complaint. Rates are stated in cents per 100 pounds.

That portion of Fourth Section Application No. 1605 of C. E. Fulton, agent, in which authority is sought to continue rates on silo material from Chicago, Ill., to La Grange and Arnold, Ky., which are lower than the rates from Napanee and other intermediate points, and from Chicago and Napanee to Elizabethtown and Morganfield, Ky., which are lower than the rates contemporaneously applicable on like traffic from the same points of origin to La Grange and Arnold, and other intermediate points, was set for hearing with the complaints. As the application in question is not filed on behalf of the Louisville & Nashville Railroad Company and as the latter's Fourth

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<sup>1</sup> The report also embraces No. 8135 (Sub-No. 1), Same v. Same; and No. 8135 (Sub-No. 2), Same v. Baltimore & Ohio Railroad Company et al.

Section Application No. 1952, which covers this situation in as far as that carrier is concerned, was not set for hearing, no disposition will be made of the fourth section features of this case.

The complaint in No. 8135, filed July 1, 1915, alleges that the rate charged on a carload of silo material shipped August 22, 1913, from Napanee to La Grange by way of the Baltimore & Ohio and the Baltimore & Ohio Southwestern railroads to Cincinnati, Ohio, and thence over the Louisville & Nashville to destination, was and is unreasonable and violative of section 4 of the act to the extent that it exceeded and exceeds the rate to Elizabethtown, to which La Grange is intermediate. Charges were collected in the sum of \$93, at a combination rate of 31 cents, composed of 15 cents to Cincinnati and 16 cents beyond, minimum 30,000 pounds. The rate legally applicable was 26 cents, composed of a joint rate of 16 cents to Louisville, Ky., and a local rate of 10 cents back to La Grange, so that this shipment was overcharged 5 cents per 100 pounds, or \$15. The Louisville & Nashville has since withdrawn from the joint rate and accepts such traffic only at Louisville, thus removing the incident fourth section departure. The 26-cent rate, which is lower than the rate to Elizabethtown and is available over the present route, is satisfactory to complainant.

The complaint in Sub-No. 1, also filed July 1, 1915, alleges that the rate charged on two less-than-carload shipments of silo material, aggregating 7,240 pounds, forwarded July 29, 1914, in one car, from Napanee to Arnold over the Baltimore & Ohio and the Cincinnati, Hamilton & Dayton Railway to Cincinnati; the Louisville & Nashville to Louisville; the Louisville, Henderson & St. Louis Railway to Ellmitch, Ky.; and the Louisville & Nashville beyond, was and is unreasonable and in violation of the fourth section to the extent that it exceeded and exceeds the rate to Morganfield, a farther distant point. The Louisville, Henderson & St. Louis was not made a party defendant. Charges were collected in the sum of \$38.23, at a supposed combination rate of 52.8 cents, composed of joint rates of 18.8 cents to Cincinnati and 34 cents beyond. This rate can not be verified. Under the tariffs, and conformably to rule 5 (b) of Tariff Circular No. 18-A, there was available and legally applicable a combination rate of 50 cents, composed of a joint rate of 25 cents to Evansville, Ind., and 25 cents beyond, so that this shipment was overcharged 2.8 cents per 100 pounds, or \$2.03. Contemporaneously there was, and still is, in effect a joint rate of 27 cents from Chicago, Ill., to Morganfield, a point 9 miles beyond Arnold over the same route, and a local rate of 6 cents back to Arnold. From Napanee, intermediate between Chicago and Morganfield, the joint rate did not, at the time these shipments moved, apply. At the hearing a willingness to accept the Chicago-Morganfield combination, 33 cents, was expressed

on behalf of complainant, and since the hearing it has been made available from Napanee to Arnold. Upon all the facts of record we find that the applicable rate was unreasonable to the extent that it exceeded the subsequently established rate of 33 cents per 100 pounds; that complainant made these shipments as described and paid and bore the charges thereon; that it has been damaged and is entitled to reparation in the sum of \$14.34, with interest. The Louisville, Henderson & St. Louis Railway Company may join in the reparation herein awarded.

The complaint in Sub-No. 2, filed July 29, 1915, as amended, alleges that the rates charged on a carload shipment of silos, forwarded June 3, 1914, from Napanee to Lancaster, Ky., and on a less-than-carload shipment, forwarded June 21, 1915, from Napanee to Taylorsville, Ky., over the Baltimore & Ohio and Baltimore & Ohio Southwestern to Cincinnati and the Louisville & Nashville beyond, were and are unreasonable to the extent that they respectively exceeded and exceed the rate to Elizabethtown. The carload shipment weighed 30,000 pounds and charges were collected thereon in the sum of \$102 at the applicable combination rate of 34 cents, composed of 15 cents to Cincinnati and 19 cents beyond. The less-than-carload shipment aggregated 5,794 pounds and charges were collected thereon in the sum of \$22.63 at the following various combination rates: On 602 pounds of doors, etc., 44.3 cents; on 600 pounds of iron, etc., 35.9 cents; on 4,592 pounds of silo staves, 38.8 cents. In its shipping directions the complainant described the property generally as silo material, but listed separately the various articles, together with the total weights of the groups of articles, upon which the charges were assessed. The shipment, however, evidently constituted a complete silo, wooden, knocked down. The movement north of Louisville was subject to rule 22 of the official classification, which provides as follows:

Parts or pieces, constituting a complete article, received as one shipment on one bill of lading, will be charged for at the rating provided for the complete article.

A like rule of the southern classification governed the movement south of Louisville. Accordingly, the shipment should have been billed as a silo, wooden, knocked down, and charged 27.3 cents to Louisville and 17 cents beyond, so that this shipment was undercharged \$3.04. In support of its allegation that these rates were unreasonable, complainant relies upon the fact that a lower rate of 29 cents, applicable to both carload and less-than-carload shipments, was and is maintained to Elizabethtown. Lancaster and Taylorsville are on branch lines of the Louisville & Nashville and not intermediate to Elizabethtown which is on the main line. While the dis-

tance to Lancaster is 10 miles less and to Taylorsville 20 miles less than to Elizabethtown, more favorable transportation conditions obtain with respect to the movement to the latter point. We are, however, of the opinion that a reasonable less-than-carload rate for the completed silo k. d. should not exceed 38.8 cents. We further find that complainant made the shipment to Taylorsville and paid and bore the charges thereon as described and is entitled to reparation on the basis of the rate herein found reasonable. Defendants may, therefore, waive the undercharge, and should make reparation in the sum of \$0.16, with interest from September 4, 1913, which represents the difference between the rates charged and what would have been a reasonable charge on the basis outlined. Defendants will be required to revise their rates for the future in accordance with this determination.

Orders will be entered awarding reparation in Sub-Nos. 1 and 2 and in Sub-No. 2 requiring defendants to establish and maintain as maximum the less-than-carload rate found reasonable to Taylorsville, and dismissing the complaint in No. 8135.

48 I. C. C.

**INVESTIGATION AND SUSPENSION DOCKET No. 1095.**  
**EASTBOUND TRANSCONTINENTAL ROOFING PAPER.**

*Submitted September 27, 1917. Decided December 17, 1917.*

Proposed cancellation of commodity rate on roofing paper and other commodities from California terminals to points in eastern defined territory, groups A to H, inclusive, found to be justified. Order of suspension vacated.

*Elmer Westlake* for Southern Pacific Company and other respondents.

**REPORT OF THE COMMISSION.**

**BY THE COMMISSION:**

By schedules, filed to become effective May 28, 1917, respondents proposed to cancel an eastbound rate of 75 cents per 100 pounds, applicable from California terminals to points in defined territory east of group J, on roofing and building paper, roof coating and roofing cement, asbestos slag roofing and wall board in bundles. Under protest of the Paraffine Paint Company of San Francisco, Cal., the operation of the schedules was suspended.

From California terminals to group J, i. e., western Colorado points, a rate of 60 cents has been maintained for some time; to defined territories, groups A to H, inclusive, the rate from the terminals has been 75 cents. The minimum weight applicable to each rate is 40,000 pounds. From intermediate points the rate has been higher, thereby producing fourth section departures. By the schedules under suspension it is proposed to make the 60-cent rate to group J applicable from and to the intermediate points of origin and destination. The cancellation of the 75-cent rate from the terminals and points in groups A to H, inclusive, would leave the higher class rates to apply. It would, however, cure the existing fourth section departures.

The 75-cent rate from the terminals was made to meet the competition of eastern manufacturers and originally applied only on roofing paper. Later the application of the rate was broadened to include the other commodities. It is below the average of eastbound commodity rates from the terminals. The present westbound rate from group A, the most easterly group, to California terminals is 90 cents, and the carriers now have pending before the Commission proposed increases which would make the westbound rates, in carloads, from group A, \$1.10; from groups F, G, and H, 85 cents; and from group J, 70 cents.

The protestant's objections, filed with the Commission prior to the suspension, stated that it had made contracts for shipments into territory to which the 75-cent rate applied, and that the proposed cancellation would compel the loss of the closed contracts and other contracts which it had in prospect. No representative of the protestant appeared at the hearing to oppose the proposed cancellation. The respondent's witness testified that he had taken the question up with the protestant, who informed him that its contracts have now been filled, and that, contrary to its expectations at the time it requested the suspension, it was convinced that the competition it has to meet from the east precludes its doing business east of group J, and that, accordingly, it has no further objections to the proposed cancellation.

Upon consideration of all the facts appearing, we find that the respondents have justified the higher rates which would result from the cancellation of the 75-cent commodity rate. The order of suspension will be vacated.

48 I. C. C.

No. 8788.  
AMERICAN GLUE COMPANY  
v.  
BOSTON & MAINE RAILROAD.

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*Submitted September 26, 1916. Decided November 15, 1917.*

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Rates on fleshings in carloads from Stoneham, Mass., to Keene, N. H., found to have been and to be unreasonable. Reparation awarded.

*J. D. Hashagen* for complainant.

*W. A. Cole* for defendant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, MEYER, AND HALL.

BY DIVISION 3:

Complainant is a corporation engaged in the manufacture of glue at Boston, Mass. By complaint, filed April 6, 1916, as amended, it alleges that defendant's charges for the transportation of certain shipments of fleshings in carloads from Stoneham, Mass., to Keene, N. H., were unreasonable and unduly prejudicial. Reparation is asked and the establishment of a reasonable rate for the future. Rates are stated in cents per 100 pounds.

Between September 3 and December 11, 1915, complainant shipped eight carloads of fleshings, aggregating 438,790 pounds, from Stoneham to Keene on which it paid and bore charges in the sum of \$483.51 at the fifth-class rate of 11 cents. The shipments were overcharged 84 cents. During 1916 complainant made 12 other shipments from and to the same points, on which the charges were paid and borne by the consignee, who is not a party to this proceeding. These shipments will not be considered.

Fleshings is a refuse of tanneries. It consists of pieces of flesh and waste which are scraped from hides, and is used to make glue. It is a low-grade commodity, ordinarily selling for from \$12 to \$13 per ton. At the time the shipments moved the official classification, which governs, rated and now rates glue stock, consisting of fleshings, hide trimmings, etc., fifth class, minimum 36,000 pounds. Glue, which sells for from 8 cents to 10 cents per pound, is likewise rated fifth class, but with a minimum of 30,000 pounds. Defendant, by exceptions to the classification, provides sixth-class rates on glue stock from and to points on its line to and from points in trunk line and central freight association territories. Carriers in trunk line and

central freight association territories, generally, provide for the application of sixth-class rates on this traffic. For complainant it is contended that the rate on fleshings from Stoneham to Keene should not exceed the sixth-class rate of 9 cents.

In *Barr Chemical Works v. P. & R. Ry. Co.*, 20 I. C. C., 77, relied upon by complainant, we found that the fifth-class import rate of 27 cents applied to glue stock from Boston to Chicago, Ill., was unreasonable to the extent that it exceeded the sixth-class domestic rate of 24 cents, and that for the future the rate on glue stock from Boston to Chicago should not exceed the rate contemporaneously in effect on "fleshings, tanners, or slaughterhouse offal, and wet hide trimmings, carload," between the same points. In that case we said:

The fifth-class rating, which applies to glue stock under the official classification, covers likewise commodities of much higher grade, such as hides, which have a value ranging from 16 to 20 cents per pound, and glue, the finished product of glue stock. In view of the much lower value of glue stock, it is certainly anomalous to give it as high a rating as that applying on hides and glue. In apparent recognition of the impropriety of placing glue stock in the fifth class the carriers between Chicago and the Atlantic seaboard have, by exceptions to the official classification, established the sixth-class rating on tannery fleshings, which are included in the general term "glue stock." The tariffs also show that by exceptions to official classification domestic sixth class applies on "fleshings, tanner's, or slaughterhouse offal, and wet hide trimmings, carload minimum 36,000 pounds" from certain eastern points, including Boston, to western points, including Chicago.

Defendant's witness testified that shortly prior to the movement of the shipments in question its fifth and sixth class rates were reduced from 13 cents and 12 cents, respectively, to 11 cents and 9 cents, respectively; that these reductions grew out of the general revision of rates on its line under the direction of the New England state commissions; and that the New Hampshire Public Service Commission, which supervised the revision of defendant's local rates, directed the cancellation of commodity rates on glue stock and prescribed in lieu thereof fifth-class rates. It is contended for defendant that competition compels it to participate in rates to and from central freight association and trunk line territories on basis of sixth class; and that the decision in *Barr Chemical Works v. P. & R. Ry. Co.*, *supra*, appears to have been influenced largely by the fact that the import rate on glue stock was higher than the domestic rate. In a subsequent proceeding we found that the fifth-class rate applied on a shipment of glue stock from Philadelphia, Pa., to Gowanda, N. Y., was, and for the future would be, unreasonable to the extent that it exceeded or might exceed the domestic sixth-class rate. *Barr Chemical Co. v. P. & R. Ry. Co.*, Docket No. 4031, unreported.

We find that the rate charged on the shipments for consideration was, is, and for the future will be, unreasonable to the extent that it

exceeded or may exceed the sixth-class rate contemporaneously in effect from Stoneham to Keene. No substantial evidence was offered to show that the rate assailed was or is unduly prejudicial. We further find that complainant made the shipments as described; that it paid and bore the charges thereon at the rate herein found unreasonable; that it has been damaged to the extent that the charges collected exceeded the charges that would have accrued at the rate herein found reasonable; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined upon the present record, and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendant for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

An appropriate order will be entered.

48 L. C. Q.

No. 8728.

WEST LUMBER COMPANY ET AL.

v.

MISSOURI, KANSAS & TEXAS RAILWAY COMPANY OF  
TEXAS ET AL.

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*Submitted October 5, 1916. Decided November 14, 1917.*

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Rates on yellow-pine and hardwood lumber in carloads from points in Texas to Galveston and Texas City, Tex., for export and coastwise movement, found justified. Complaint dismissed.

*J. M. Simmons* for complainants and intervener.

*C. S. Burg, J. F. Garvin, and L. M. Hogsett* for defendants and their receivers.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainants are corporations engaged in the lumber business at Houston, Tex. By complaint, filed March 16, 1916, they allege that defendants' rate of 8½ cents per 100 pounds on yellow-pine and hardwood lumber in carloads from Onalaska, Westville, and Sequoyah, Tex., to Texas City and Galveston, Tex., for export or coastwise movement beyond the state of Texas, is unreasonable and unduly prejudicial. The Saner Ragley Lumber Company, a corporation engaged in the lumber business at Carmona, Tex., intervened and alleged that defendants' rate of 8½ cents per 100 pounds on yellow-pine lumber in carloads from Carmona to the ports above named, for export and coastwise movement beyond the state of Texas, is unreasonable and unduly prejudicial. Reparation is asked on shipments moving since February 15, 1916, and the establishment of reasonable and non-prejudicial rates for the future. Rates are stated in cents per 100 pounds.

The points of origin are on the Trinity division of the Missouri, Kansas & Texas Railway Company of Texas. That division consists of two short branch lines, extending from Trinity, Tex., at which point they connect with the International & Great Northern Railway. There is no direct connection between the Trinity division and any other portion of the Missouri, Kansas & Texas. Traffic

from points on this division to Galveston moves by way of Trinity, the International & Great Northern to Houston, Tex., and the Missouri, Kansas & Texas beyond, or over the International & Great Northern all the way from Trinity; and traffic to Texas City moves over the same route to Houston, thence over either the Missouri, Kansas & Texas or the International & Great Northern to Texas City Junction, Tex., and over the line of the Texas City Terminal Company beyond. An allowance of \$3.50 per car is made to the Texas City Terminal for the service performed by it. The rates assailed apply on export traffic or on traffic for coastwise movement to points in other states. For convenience these rates will be referred to hereinafter as export rates.

Prior to December 18, 1913, the export rates from these points of origin to Galveston and Texas City were 7 cents, minimum 30,000 pounds. On that date these rates were canceled, leaving applicable rates of  $8\frac{3}{4}$  cents. On November 18, 1914, the 7-cent rates were restored, the minimum being increased to 50,000 pounds. These latter rates remained in effect until February 15, 1916, when they were increased to  $8\frac{3}{4}$  cents, minimum 30,000 pounds, and these rates are still in effect. As the present rates represent an increase subsequent to January 1, 1910, the burden of justifying their reasonableness is on defendants.

Complainants compete with mills at points south and southeast of them on the Houston, East & West Texas, and the Gulf, Colorado & Santa Fe railways, and the Texas & New Orleans Railroad, from which points export rates of 7 cents apply to Galveston and Texas City. Complainants testified that they have been forced out of the export business, largely as a result of the increase in their rates, which makes it impossible for them to compete successfully with mills from which the 7-cent rates apply; that they are not primarily seeking a 7-cent rate, but are interested solely in being placed upon a parity with their competitors; and that if the 7-cent rate is restored they are willing to have the minimum fixed at 60,000 pounds. The average distance from these points of origin to Galveston and Texas City is approximately 144 miles. The 7-cent rate yielded and the  $8\frac{3}{4}$ -cent rate yields earnings per ton-mile of 9.7 mills and 12.2 mills, respectively, and per car-mile, based on the minimum of 50,000 pounds formerly applicable in connection with the 7-cent rate, 24.3 cents and 30.4 cents, respectively. The intrastate rates from points on the Trinity division to Galveston and Texas City are stated to be 7 cents.

Defendants stated that the 7-cent rate from the Trinity division was established to enable the mills located on that division to com-

pete with mills on other roads south thereof from which a 7-cent rate applied; and that it was not then nor is it now considered reasonable or compensatory.

The Houston, East & West Texas and the Texas & New Orleans, which are parts of the Southern Pacific system, serve Galveston in connection with the Galveston, Harrisburg & San Antonio Railway, also a part of the Southern Pacific system; and the Gulf, Colorado & Santa Fe Railway, which serves Galveston direct, runs north and south through the territory served by the Trinity division and east thereof. The routes of the Texas & New Orleans and the Gulf, Colorado & Santa Fe to Galveston and Texas City are rather circuitous. For the purpose of making export rates on lumber to the ports mentioned, the stations on all of these lines in this general territory are grouped. On the Houston, East & West Texas and the Gulf, Colorado & Santa Fe there are two groups which, for the purpose of this case, may be termed the northern and southern groups. The rates from the southern groups are 7 cents; from the northern groups, 8½ cents. The Texas & New Orleans maintains three groups: A southern group from which the rate is 7 cents; a northern group from which it is 8½ cents; and an intermediate group from which it is 8 cents. The lines of the Trinity division, which run east and west, are, roughly, about on a line with the boundaries between the northern and southern groups of the Houston, East & West Texas and the Gulf, Colorado & Santa Fe and at the center of the intermediate group on the Texas & New Orleans. Neither the Missouri, Kansas & Texas nor the International & Great Northern participate in the 7-cent or 8-cent rates maintained by the other carriers mentioned.

Attention is called by defendants to the fact that the 7-cent rates from points on the Houston, East & West Texas and the Gulf, Colorado & Santa Fe south of the territory served by the Trinity division, and the 8-cent rate from the intermediate group on the Texas & New Orleans apply over one-line or system-line hauls to both Galveston & Texas City, except that a switching movement of the Texas City Terminal is necessary on shipments to the latter point, whereas the transportation from points on the Trinity division is over two lines to Galveston and three lines, including the Texas City Terminal, to Texas City. There were cited a number of export rates on lumber from points in Texas to Galveston and Texas City with which, distance considered, the rates assailed do not compare unfavorably. It was stated by defendants that they are at present seeking permission from the Railroad Commission of Texas to increase the 7-cent intrastate rates from the Trinity division to those ports.

Complainants cited *Lumbermen's Asso. of New Orleans v. M. L. & T. R. R. & S. S. Co.*, 33 I. C. C., 516. In that case we prescribed a rate of 7 cents on lumber from Mackland, La., to New Orleans, La., for a distance of 176 miles. But the facts and circumstances upon which that decision was based were substantially different from those present in this case.

We find that defendants have justified the rates assailed. An order will be entered dismissing the complaint.

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No. 9370.

CHAS. SCHAEFER & SON

v.

LONG ISLAND RAILROAD COMPANY.

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*Submitted October 29, 1917. Decided December 11, 1917.*

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Demurrage charges at Long Island City on certain cars of hay held at that point and consigned to complainants at public team tracks at Bushwick station, Brooklyn, found to have been assessed without tariff authority.

*Geo. W. Jackson* and *Herbert Goldmark* for complainants and interveners.

*C. L. Addison* and *Joseph F. Keany* for defendant.

REPORT OF THE COMMISSION.

DIVISION 1, COMMISSIONERS McCHORD, MEYER, AND AITCHISON.

MEYER, *Commissioner*:

Charles Schaefer and his son, under the firm name of Chas. Schaefer & Son, are engaged in buying and selling hay at Brooklyn, N. Y. By complaint, filed December 8, 1916, they allege that certain charges collected by defendant for car detention during the months of April and May, 1916, on cars consigned to Bushwick station, Brooklyn, and held out for them short of destination, are unreasonable. Reparation is asked.

At the hearing, the G. E. Van Vorst Company and W. C. Powers & Company, hay dealers at Brooklyn, intervened and presented claims for reparation. Their claims are substantially similar to those urged by complainants.

Defendant has no rails west of the Hudson River but delivers traffic which has moved to New York harbor over the lines of its connections to Long Island points. The cars of hay on which the demurrage here considered accrued all moved from interstate points.

Complainants have a warehouse at Bushwick station which will accommodate 50 carloads of hay. This is connected with defendant's tracks by a siding which holds 8 cars. Complainants also have two hay boats with a capacity of 25 carloads each. They, therefore, have private storage capacity for 100 carloads of hay exclusive of their sidetrack.

Bushwick station, to which all of these cars were consigned, has team tracks with a capacity of about 350 cars. While none of these tracks are exclusively devoted to the hay business, team tracks numbered 2, 3, and 4, each capable of holding 17 cars, are in almost constant use by hay dealers. The other tracks also are frequently occupied by hay cars. At times Schaefer & Son have had more than 100 cars of hay on the public team tracks at Bushwick station.

The complaint does not bring in issue the demurrage charges specified in the tariff. From April 15 to May 16, inclusive, complainants paid demurrage to the defendant aggregating \$1,538. The parties are agreed that if there are over or under payments in this sum the same will be corrected. The question presented here is whether under the tariff in force at that time and in the circumstances shown by this record any charge should have been made.

The rules applicable to the cars in question are found in Long Island Railroad tariff I. C. C. 631, and are designated as rule 1 and rule 5 (b). These rules are as follows:

**RULE 1.—Cars subject to rules.**

Cars held for or by consignors or consignees for loading, unloading, forwarding directions, or for any other purpose, are subject to these demurrage rules \* \* \*.

**RULE 5.—Placing cars for unloading.**

(b) When delivery can not be made on specially designated public-delivery tracks on account of such tracks being fully occupied, or from other cause beyond the control of the carrier, the carrier shall *send or give* the consignee notice *in writing* of its intention to make delivery at the nearest point available to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery shall be made.

In April, 1916, Bushwick station was congested, and defendant considered placing an embargo on traffic for delivery at that point. Complainants, learning of the proposed embargo, reconsigned to that point more than 100 cars containing hay from points in New Jersey. It is not clear from the record whether or not other receivers of

freight at this station had like knowledge of the impending embargo. The embargo was placed effective April 7, after complainants had reconsigned their cars from New Jersey points. On April 15, as a result of the reconsignment and the arrival of other cars then in transit consigned to complainant, the defendant had a larger number of cars on its tracks for complainant than it could promptly deliver because of the congestion at Bushwick station. This inability to promptly deliver was alleged to have been caused by the failure of complainants to properly utilize their storage facilities and release cars already on public team tracks. On April 15 three cars were on complainants' private siding, 29 cars on public team tracks at Bushwick station consigned to complainants, and 151 cars consigned to complainants were held at Long Island City because of lack of available space on delivery tracks at Bushwick station. The demurrage charges here in issue were collected on the 151 cars so held.

On April 15 defendant addressed complainants the following letter:

You are hereby notified that this company is now holding the following cars subject to your orders or disposition and which can not be placed due to your inability to promptly release cars consigned to you at this station.

All cars actually placed and held out are subject to regular demurrage charges.

To assure to you a regular and reasonable supply of freight, the number of cars we will place each day will depend upon the number of cars you release from day to day.

Upon receipt of this letter complainants on April 15 replied thereto as follows:

In reference to telephone conversation with your Mr. Frank R. Bath of this day in regard to hay now at Long Island City billed to Bushwick station, Long Island, and subject to storage charges if not being able to handle same, we would advise you to place all this hay on public team tracks at Bushwick station at once, as we can take delivery of this hay immediately owing to some large export orders we have for immediate delivery.

We have unloaded this week 90 per cent of the hay within the free time and we assure you that the hay you claim that you have now at Long Island City for Bushwick can be unloaded within a very few days, providing you can place same where we can take delivery of it.

For your information we beg to state that we will under no consideration pay demurrages on hay that is held on storage tracks.

It is stated by complainants that on April 18 they addressed a letter to defendant requesting it to divert 25 of the cars held at Long Island City to Flatbush avenue. A copy of this letter is not of record, but that such a letter was written can not be doubted, as will be seen by the following reply addressed to complainants by the traffic manager of defendant:

Your letter of April 18 requesting us to divert 25 cars now at Long Island City to Flatbush avenue.

As explained to your Mr. Phillips over the phone to-day we regret to advise that owing to congestion at Flatbush avenue we will be unable to accept your orders for diversions to this point and would ask you to arrange for other disposition.

Defendant explained the situation with respect to cars at and destined to Bushwick station by showing that on April 12 there were nearly 800 cars consigned to that point, of which more than 300 were placed and more than 400 held out awaiting placement. Of those held out 192 contained hay consigned to Chas. Schaefer & Son. Confining our attention, therefore, to cars loaded with hay consigned to complainants at public team tracks, Bushwick station, we find that on April 15, 29 were in place, 151 were held out, and only 8 released; April 17, 28 were in place, 174 held out, and 17 released; April 20, 67 were in place, 136 held out, and 20 released. It would be useless to repeat the situation from day to day as shown in the record. It is sufficient to state that during the period named complainant released an average of about 8 cars and defendant made additional placements of about 7 cars per day. There were in place for unloading an average of about 30 cars each day during this period. During the same period the available storage of 100 carloads owned by complainants was never utilized to more than 15 per cent of capacity; and seldom did complainants receive more than two or three cars on their private siding. The record is clear that complainants used the public team tracks at Bushwick station for the marketing of hay, and that they did not desire more than a very small percentage of the cars here considered placed on their private siding.

Although the embargo was effective April 7, the record does not show any demurrage charges on cars held for complainants prior to April 15, when defendant notified them that it was holding 151 cars subject to orders. The notice gave initials and numbers of cars which could not be placed at Bushwick station owing to complainants' alleged inability promptly to release cars already placed there, and stated that cars placed and cars held were subject to regular demurrage charges. Defendant assured complainants a supply of cars each day equal in number to the cars released on that day. This notice was served in compliance with defendant's demurrage rule, quoted above.

Defendant contends that it was justified in the assessment of the demurrage charges because of complainants' failure to promptly release cars actually placed for unloading, because of complainants' refusal to use its sidetrack facilities and to utilize its warehouse capacity, and because of their refusal to accept delivery at any other point than Bushwick station, when Long Island City yards, 3 miles distant, were uncongested and not embargoed.

The defendant's right to assess demurrage charges is of course dependent upon its published tariff rules in effect at the time. As will be seen by rule 5 (b) of the tariff, above quoted, in order to assess demurrage charges on cars placed for unloading the carrier must (1) place the car for unloading at the billed destination—in this instance the public team tracks at Bushwick station—or (2) must "send or give notice in writing of its intention to make delivery at the nearest point available to the consignee, naming the point." If before delivery is made at the point so named the consignee shall indicate a preferred available point, such preferred delivery shall be made. The letter of defendant of April 15 stated that defendant was "holding the following cars" subject to complainants' orders or disposition. The letter did not name the point at which the cars were held and did not state that the cars so held were in a position where complainants could take delivery. This letter is not a notice of defendant's intention to make delivery at Long Island City as contemplated by rule 5 (b).

While it is true that complainants in their letter of April 15 demanded delivery at Bushwick station, it is also true that on April 18 they requested that 25 cars be diverted to Flatbush avenue, and since delivery, actual or constructive, had not been made at Long Island City, complainants were within their rights in making such request. Defendant by its letter of April 18 stated that this order could not be complied with for the reason that Flatbush avenue was as congested as Bushwick station. However, no embargo was in effect at Flatbush avenue until April 20, two days after complainants' order was given. Until the embargo against that station was declared defendant held itself out to accept shipments for delivery at that point, and so far as these 25 cars are concerned it is clear that demurrage charges should not have been assessed after April 18.

Since, as stated above, the cars held at Long Island City can not be considered as having been constructively delivered to complainants at that point, it follows that whatever authority defendant had for the assessment of demurrage charges on the 25 cars referred to above from April 15 to April 18, and on the remaining 126 cars for the entire period, must be found in rule 1. This rule states that "cars held for consignees for loading, unloading, forwarding directions, *or for any other purpose*, are subject to these demurrage rules."

This complaint grew out of the congested condition of Bushwick station and a lack of promptness on the part of defendant in placing an embargo against traffic destined to this point. These facts, together with the information alleged to have been given complainants by an agent of defendant on the eve of the embargo that such an embargo was going to be placed, with at least an implied invitation to reconsign cars to that point before the embargo was declared,

resulted in defendant being physically unable to make deliveries of complainants' cars. Much stress is laid by defendant upon the allegation that complainants were responsible for the crowded condition of the team tracks at Bushwick station on April 15. With a capacity of 350 cars at that station only 29 were on the public team tracks on April 15 consigned to complainants. The record shows, however, that at times complainants have had more than 100 cars of hay at Bushwick station and no congestion resulted. Regardless of the action complainants should or should not have taken with respect to their storage facilities, there can be no doubt that until the declaration of the embargo against Bushwick station they had a legal right to make shipments to the public delivery tracks at that station and were entitled to delivery on those tracks, with the usual allowance for free time. It therefore follows that the cars held at Long Island City can not be considered as held for the consignee within the meaning of the rule, but were held for the carrier's convenience.

At the time this controversy arose there was a serious congestion of traffic around New York harbor. At such times it is the duty of both shippers and carriers to exhaust every means within their power to relieve such a situation. The action of complainants in this case in failing to utilize more than 15 per cent of the storage space available is open to criticism as lacking in that cooperation which might reasonably have been expected of them.

We find that the demurrage charges on shipments of complainants were assessed without tariff authority. We further find that complainants paid and bore the charges in controversy; that they have been damaged to the extent of the amount of these demurrage charges; and that they are entitled to reparation, with interest from the dates of payment. The exact amount of reparation due can not be determined on this record, and complainants should prepare a statement showing the details of the shipments, in accordance with rule V of the Rules of Practice, which statement should be submitted to defendant for verification. Upon receipt of a statement so prepared and verified, we will consider the entry of an order awarding reparation.

The record is not sufficient to show that the demurrage charges paid by interveners were assessed under conditions similar to those surrounding complainants' shipments. The claims of interveners are therefore dismissed without prejudice.

No. 9236.<sup>1</sup>

ORIENTAL TEXTILE MILLS

v.

ALABAMA & VICKSBURG RAILWAY COMPANY ET AL.

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*Submitted October 26, 1917. Decided December 11, 1917.*

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1. Joint rates applicable on press cloth in carloads from Houston Heights, Tex., to destinations in the Mississippi Valley found unreasonable to the extent that they exceed the aggregates of the intermediate rates; other rates on press cloth from Houston Heights to the southeast not found unreasonable or unduly prejudicial.
2. Rates on press cloth from Houston Heights, Tex., to destinations in central freight association and western trunk line territories not found unreasonable or unduly prejudicial.
3. Rating of press cloth in the official, western, and southern classifications at first class, any quantity, not found unreasonable or unduly prejudicial. Complainant's request for carload rating on press cloth not justified.
4. Fourth section relief denied to carriers maintaining carload rates on press cloth from Houston and Houston Heights, Tex., to Memphis, Tenn., New Orleans, La., and Vicksburg, Miss., and commodity rates on press cloth, any quantity, from Houston Heights, Tex., to certain destinations in central freight association and western trunk line territories.
5. Application of Louisville, Henderson & St. Louis Railway Company for relief from provisions of the fourth section granted.

*Huggins & Kayser, J. A. Morgan, and F. A. Lallier* for complainant.

*R. Walton Moore, Frank W. Gwathmey, and D. L. Younger* for Southeastern and Mississippi Valley lines; *F. R. Dalzell* for Gulf, Colorado & Santa Fe Railway Company and Atchison, Topeka & Santa Fe Railway Company; *J. F. Garvin* for Missouri, Kansas & Texas Railway Company; Missouri, Kansas & Texas Railway Company of Texas and its receiver; *L. M. Hogsett* for International & Great Northern Railway Company and its receiver; *L. M. Hogsett* and *I. M. Griffin* for Texas & Pacific Railway Company; *M. J. Dowlin* for Chicago, Rock Island & Gulf Railway Company, and Chicago, Rock Island & Pacific Railway Company and its receiver;

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<sup>1</sup> This report also embraces complaint in No. 9398, Oriental Textile Mills v. Atchison, Topeka & Santa Fe Railway Company et al., and Portions of Fourth Section Applications Nos. 60, 117, 221, 458, 484, 488, 540, 542, 601, 628, 703, 782, 789, 792, 793, 794, 796, 798, 799, 972, 1021, 1024, 1065, 1074, 1478, 1479, 1530, 1537, 1546, 1548, 1555, 1561, 1563, 1572, 1573, 1789, 1951, 1952, 2019, 2029, 2043, 2045, 2138, 2188, 2222, 2659, 3239, 3659, 3918, 3931, 3965, 4048, 4218, 4219, 4220, 4297, 4327, 4944, 4948, 4964, and 4966.

*Gentry Waldo, H. C. Bush, and F. H. Wood* for Houston & Texas Central Railroad Company; Galveston, Harrisburg & San Antonio Railway Company, and others; *John T. Bowe and Thompson, Barwise & Wharton* for Trinity & Brazos Valley Railway Company and its receiver; *R. C. Fulbright* for Beaumont, Sour Lake & Western Railway Company; New Orleans, Texas & Mexico Railway Company; and Orange & Northwestern Railroad Company; *J. R. Skillman* for Louisville, Henderson & St. Louis Railway Company; and *William Burger* for Louisville & Nashville Railroad Company.

#### REPORT OF THE COMMISSION.

DIVISION 1, COMMISSIONERS McCHORD, MEYER, AND AITCHISON.

AITCHISON, *Commissioner*:

Reports proposed by the examiner in these cases were served upon the parties and exceptions filed thereto by the Oriental Textile Mills have been noted. The nature of the cases permits their disposition in a single report.

The complaints in these proceedings put in issue (in No. 9236) the carload and less-than-carload rates on press cloth from Houston Heights, Tex., to destinations in Alabama, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and (in No. 9398) to central freight association and western trunk line territories. It is alleged that the rates on press cloth from Houston Heights to those destinations are unreasonable, and, in relation to the rates from New York, N. Y., Baltimore, Md., and other points at which complainant's competitors are located, to the same destinations, they are unduly prejudicial to complainant. The establishment of reasonable and nondiscriminatory rates is sought. Rates are stated in amounts per 100 pounds.

Complainant corporation manufactures press cloth at Houston Heights, a suburb of Houston, Tex. Press cloth is a heavy, coarse fabric woven of wool and hair, which is used as a strainer in hydraulic presses in the process of extracting oil from oleaginous seeds, peanuts, or other materials. The greatest demand for press cloth is in the cotton-producing section, where cottonseed oil mills are located. The value of press cloth ranges from 40 cents to 85 cents a pound. It is shipped in rolls, 14 to 16 inches wide and about 4 feet in diameter, wrapped in paper and burlap. These rolls weigh from 350 to 550 pounds each. Injury in transit is practically impossible, and claims for loss or damage are negligible. Complainant's output amounts to about 1,800,000 pounds of press cloth annually.

Press cloth is rated first class, any quantity, in the official, western, and southern classifications.

NO. 9236.

Rates on press cloth from Houston Heights to the southeast are generally made on the basis of the lowest combinations on the Mississippi River. There are a few exceptions to this general basis, where carriers east of the river have established joint rates to some points on their lines to meet the competition of lines west of the river. Carload rates of 40 cents, minimum 24,000 pounds, from Houston Heights to Memphis Tenn., Vicksburg, Miss., and New Orleans, La., were established by the lines west of the river some years ago to assist in developing complainant's business, and these rates are not under attack.

Complainant competes with manufacturers at Augusta, Ga., Charleston, S. C., New York, N. Y., and other points, from which rates to the southeast are differentially related to the rates from New York, and the rates from New York are illustrative of the rate comparisons relied upon by complainant. Below is a table showing rates representative of these comparisons. The rates from Houston Heights, shown in the table as carload rates (except the rate to Meridian, Miss., which is the joint first-class rate applicable on any quantity) are composed of carload rates to Memphis, New Orleans, or Vicksburg, plus the first-class rates beyond; the less-than-carload rates (except the rate to Meridian) are combinations of the first-class rates based on the river. The rates from New York are the first-class rates, any quantity:

	From Houston Heights.			From New York.	
	Distance.	Rate C. L.	Rate L. C. L.	Distance.	Rate.
	<i>Miles.</i>			<i>Miles.</i>	
Atlanta, Ga.....	860	\$1. 43	\$1. 96	878	\$1. 26
Columbia, S. C.....	1, 113	1. 53	2. 04	705	1. 08
Birmingham, Ala.....	701	1. 27	1. 86	992	1. 31
Meridian, Miss.....	548	1. 47	1. 47	1, 145	1. 34
Chattanooga, Tenn.....	844	1. 16	1. 96	849	1. 26
Charlotte, N. C.....	1, 128	1. 37	1. 97	502	1. 03

To some points in the Mississippi Valley the joint first-class rates from Houston Heights are higher than the aggregates of the carload rates on press cloth to the river crossings plus the first-class rates beyond. The record does not disclose all of such instances, but it is shown, for example, that the joint first-class rate from Houston Heights to Meridian is \$1.47, whereas the combination on the river makes a carload rate of \$1.15. The carriers offered no defense of this situation, but expressed a willingness to reduce the joint rates to the basis of the aggregates of the intermediate rates. We find that the

joint rates applicable on press cloth in carloads from Houston Heights to Meridian, Miss., and other points in the Mississippi Valley, which are higher than the aggregates of the intermediate rates from and to said points, are and for the future will be unreasonable to the extent that they exceed or may exceed the aggregates of the intermediate rates subject to the act contemporaneously maintained, and an order will be entered accordingly.

Practically all of the press cloth shipped from New York to the southeast moves via the ocean-and-rail routes. The ocean-and-rail rates from New York to the destinations shown in the table are 12 cents lower than the all-rail rates except to Meridian; to that point they are the same. The density of traffic in the territory traversed from New York to the southeast is admittedly greater than for the territory through which the rates from Houston Heights apply, and this disparity in conditions militates against a deduction that the rates from Houston Heights and from New York should be even approximately on the same mileage basis.

The complainant has not shown that the first-class rates, as such, are unreasonable or unduly prejudicial, and the issues, except in so far as the joint rates to Mississippi Valley points are in excess of the aggregates of the intermediate rates, are resolved into the question of whether the rating of first class, any quantity, is properly applicable on press cloth.

The complainant submitted comparisons of rates on cotton piece goods which are rated fourth class in the southern classification; in official classification, rule 25, which provides for rates 15 per cent below second-class rates, but not lower than third-class rates; in western classification, first class; but in the latter, by exceptions to the classification, the larger part of the movement of cotton piece goods has been under third-class rating. There is no competition between cotton piece goods and press cloth, and they are not in such a degree analogous commodities as to make the rates and ratings on one commodity of value in determining the reasonableness of rates on the other. Rates on machinery from points in the southeast to Houston Heights, which are lower than the rates on press cloth in the opposite direction, were cited by complainant, but we are not impressed with the claim that there should be some relation between them, because a small amount of press cloth is used in the operation of hydraulic presses.

Complainant's principal basis for its contentions is that the classification should be changed and press cloth be given a lower rating in carloads in order that it may forward its product in carload lots to distributing centers from which less-than-carload shipments may be made to near-by consumers. The complainant specifies Atlanta

in particular as the point from which it wishes to distribute press cloth. The annual consumption of press cloth in the southeast is approximately 2,000,000 pounds. No single purchaser buys as much as a carload for use at any one point. During the two-year period ended January 1, 1917, complainant shipped 18 carloads, of an average weight of 31,069 pounds. The carload commodity rates from Houston Heights to Memphis, Vicksburg, and New Orleans, as far as disclosed by the record, are the only carload rates on press cloth that have been established anywhere. Combinations of these carload rates to the river, plus the first-class rates beyond, afford complainant through rates on carload shipments which are considerably less than the through rates on less-than-carload lots, except to some points in the Mississippi Valley referred to above. To single out Atlanta and apply carload rates to that city from Houston Heights without making them generally applicable would be to give that city an undue preference, and would subject complainant's competitors, who ship to that city on any-quantity rates, to disadvantage and prejudice which the record herein can not justify.

Defendants direct attention to the fact that fabrics woven of wool, of which there is a considerable movement in this territory, are generally rated first class, in any quantity, in the southern classification. The question of a lower rating on press cloth has been several times considered by the Southern Classification Committee without any resulting change in the classification of the commodity. This fact may be of value in understanding the situation, but of course the action of the classification committee does not conclude the question now under consideration.

Considering the high value of press cloth—a carload of average weight being worth at the present prices from \$12,427 to \$26,408—the comparatively small volume of its movement, the long-continued uniform practice of rating it first class, any quantity, throughout the country, and other facts of record, we are of the opinion that the complainant has not shown that the present classification ratings are unreasonable or otherwise in violation of law. We find that the rates assailed in the complaint in No. 9236 have not been shown unreasonable or unduly prejudicial, except the joint rates applicable on press cloth in carloads, from Houston Heights to points in the Mississippi Valley which are in excess of the aggregates of the intermediate rates, and which have already been condemned.

NO. 9398.

First-class rates apply on press cloth in any quantity from Houston Heights to destinations in central freight association and western trunk line territories, except to a number of points to which

commodity rates, any quantity, have been established. The through first-class rates are made by the addition of certain differentials over St. Louis, Mo.

Complainant submitted comparisons of the rates on press cloth from Houston Heights with the rates from New York. These show that the rates from New York are generally lower per mile than the rates from Houston Heights to points in central freight association and western trunk line territories. Fairly illustrative of these comparisons are the rates of 92.2 cents from New York to St. Louis, 1,053 miles, and \$1.12 from Houston Heights to Chicago, Ill., 1,072 miles. The New York-St. Louis rate is for a single system haul through territory of high traffic density; from Houston Heights to Chicago, the route given by complainant is over five lines through higher rated territory and less traffic density than that traversed by the haul from New York. Complainant obtains the distances to St. Louis and beyond by using the shortest possible mileage without regard to the usual and customary routes. The trend of traffic is toward Houston and Houston Heights, and there is a considerable empty-car movement northward. The average earnings from all traffic over the southwestern lines for the year ended June 30, 1916, were considerably less than the earnings under the rates on press cloth.

An exhibit filed on behalf of complainant shows rates on burlap, cotton and jute bagging, and burlap and gunny bags, in carloads, from St. Louis to Houston, ranging from 32 cents to 60 cents, and that the average carload rate on 26 commodities taking a minimum of 24,000 pounds, is 73.77 cents. We recently sustained, as justified, the cancellation of commodity rates on burlap press cloth in western trunk line territory. *Western Trunk Line Rate Increases*, 43 I. C. C., 481, 486.

Complainant offered comparisons with the rates on cotton piece goods, but, as above stated, there is such a dissimilarity between the commodities from a transportation standpoint, that these comparisons are not convincing.

It does not appear that there has been any movement of press cloth in carloads to central freight association or trunk line territories, or that there is any need for carload rates to those territories either for purposes of distribution from trade centers, or for sale to single users of the commodity.

Upon consideration of all the facts of record, we find that the rates on press cloth from Houston Heights to destinations in central freight association and western trunk line territories have not been shown to be unreasonable or unduly prejudicial, and the complaint in No. 9398 will be dismissed. This finding is consonant with the tentative report of the examiner, served upon the parties, which recommended

the dismissal of the complaint herein. To that tentative report the complainant took no exception.

#### FOURTH SECTION APPLICATIONS.

By those portions of the fourth section applications set for hearing in connection with these proceedings, the carriers, parties thereto, seek authority to continue to charge for the transportation of press cloth from Houston and Houston Heights, Tex., to points of destination east of the Mississippi River and south of the Ohio River, described in the complaint, and from Houston Heights to all points in defined territories (as described in Southwestern Lines Territory Directory 1-D, F. A. Leland, agent, I. C. C. No. 1053), including western trunk line and central freight association territories, rates which are lower than the rates which are contemporaneously maintained on like traffic from or to intermediate points. These applications present the following situations: (1) Rates to the southeast; (2) carload rates to Memphis, Vicksburg, and New Orleans; (3) the maintenance of commodity rates, any quantity, to certain points named in F. A. Leland's I. C. C. No. 1116, item 3222; and (4) the application of the Louisville, Henderson & St. Louis Railway. They will be considered in that order.

(1) Many of the factors between the Mississippi River crossings and points in the southeast which are used in constructing combination rates on press cloth from Houston and Houston Heights to points in the southeast are in contravention of the long-and-short-haul clause of the fourth section, and departures occurring in these rates are reflected in the combination rates. Some of the rates east of the Mississippi River and south of the Ohio River were before the Commission in *Fourth Section Violations in the Southeast*, 30 I. C. C., 153. The orders entered therein have been generally complied with, and the carriers are now engaged in the revision of all the rates in that section in accordance with the general principles of those orders. No additional finding or order is necessary as to the fourth section departures in the combination rates from Houston and Houston Heights involved herein, which are due to the departures existing in the components between the Mississippi River crossings and points in the southeast.

(2) Carload rates of 40 cents apply from Houston and Houston Heights to New Orleans, Vicksburg, and Memphis, but do not apply to intermediate points. This makes a combination of the carload rate to the river, plus the any-quantity rates beyond, to some local points, less than the through rate to the same points. As to this departure from the fourth section no relief is asked or should be granted.

To New Orleans the direct line is by way of the Houston & Texas Central Railroad and the Southern Pacific lines, a distance of 367 miles. To Vicksburg the direct line is by way of the Houston & Texas Central, Houston East & West Texas Railway, Houston & Shreveport Railroad, and Vicksburg, Shreveport & Pacific Railway, 408 miles. To Memphis the short line is by way of the Houston & Texas Central, Houston East & West Texas, Houston & Shreveport, and the St. Louis Southwestern Railway, 560 miles. The 40-cent rate is maintained by other than the direct lines. Some of the routes exceed the direct routes by 15 per cent in length and others do not. Under rule 77 of Tariff Circular 18-A carriers are permitted to file tariffs containing commodity rates from known points of production without making such rates applicable from all intermediate points if such tariffs provide that, upon reasonable request therefor, rates which will not exceed those in effect from or to more distant points will be established from or to any intermediate point upon one day's notice. Over some of the routes rule 77 applies both as to points of origin and destination, over some as to points of destination only, and as to other routes this rule does not apply.

No justification other than the claim that the 40-cent rate, although not published as such, is, in effect, a proportional rate, and that there is no carload movement to or from intermediate points, was presented by the direct lines and lines not exceeding the direct lines by 15 per cent in length. This is not a justification.

Some of the circuitous routes via which relief is sought are more than 100 per cent longer than the direct lines. In only a few instances have the petitioners shown the rates they desire to continue to intermediate points, and these appear to be considerably in excess of the rates to the more distant points via the lines observing the fourth section, which have established rates by authority of rule 77. It is the rule of the Commission not to grant relief from the fourth section where a route is extremely circuitous, and also to deny relief where the rates to the intermediate points appear to be unreasonably high as compared with the rates via the direct lines which are required to observe the fourth section. Under the circumstances, we are not convinced that it has been shown that the carriers are entitled to relief in respect to their carload rates to the Mississippi River crossings, and their applications as to these rates will be denied.

(3) The applicants offered no testimony to justify the departures growing out of the maintenance of commodity rates, any quantity, named in Leland's I. C. C. No. 1116, item 3222, and to the extent that these departures are involved, the applications will be denied.

(4) The line of the Louisville, Henderson & St. Louis Railway extends through Kentucky, between Strawberry, Ky., and Hender-

son, Ky., with a branch line from Irvington, Ky., to Fordsville, Ky., and it has trackage rights from Strawberry to Louisville, Ky., and from Henderson to Evansville, Ind. In a general way it parallels the Ohio River. Were the traffic here involved to follow the rate-making routes to Evansville, Henderson, Louisville, Cincinnati, Ohio, and Owensboro, Ky., there would be no departures from the long-and-short-haul provisions of the fourth section. On traffic from Houston Heights the route of this line, which is via St. Louis, exceeds the distance by way of the direct route to Owensboro, 17.8 per cent; to Louisville, 19.7 per cent; and to Cincinnati, 17.6 per cent.

Under the principles heretofore applied to applications for relief under the fourth section, the carriers have shown that they are entitled to relief and will be permitted to continue to charge lower rates on press cloth to Evansville, Henderson, Louisville, Owensboro, and Cincinnati, via the Louisville, Henderson & St. Louis, and to maintain higher rates to intermediate points on that line, as now provided in its tariffs, provided that the rates to said intermediate points do not exceed the lowest combinations and that the present rates to intermediate points are not exceeded.

In most instances the rates on press cloth in less than carloads from Houston and Houston Heights, are the first-class rates, and action upon the carriers' applications covering these rates will be reserved until the question of their general class-rate adjustment is considered.

Appropriate orders will be entered.

48 L. C. C.

No. 8712.

COMMERCIAL CLUB OF MITCHELL, S. DAK., ET AL.

v.

AHNAPEE & WESTERN RAILWAY COMPANY ET AL.

Submitted November 22, 1917. Decided January 7, 1918.

1. Upon reargument, finding in the original report requiring the establishment of proportional class rates to Mitchell, S. Dak., from points of origin in the territory east of the Indiana-Illinois state line and north of the Potomac and Ohio rivers upon the basis set out in said report, affirmed.
2. Live poultry rate from Mitchell, S. Dak., to New York, N. Y., found unreasonable to the extent indicated herein.

*D. L. Kelley, P. W. Dougherty, and Oliver E. Sweet* for complainants.

*J. N. Davis* for defendants.

*C. E. Childe* for Traffic Bureau of the Sioux City Commercial Club and *H. C. Barlow* for Chicago Association of Commerce, interveners.

REPORT OF THE COMMISSION UPON REARGUMENT.

DANIELS, *Commissioner*:

In our original report in this proceeding, 46 I. C. C., 1, we found, among other things, that the class rates to Mitchell from points east of the Indiana-Illinois state line and north of the Ohio and Potomac rivers are unreasonable and unduly prejudicial to the extent that they exceed rates composed of the contemporaneous proportional rates applicable from the same points of origin to the Mississippi River on traffic destined for Sioux City, Iowa, and Sioux Falls, S. Dak., plus proportional rates from the Mississippi River crossings, East Burlington, Ill., to East Dubuque, Ill., inclusive, not exceeding the following, all rates being stated in cents per 100 pounds:

Class .....	1	2	3	4	5	A	B	C	D	E
Rate.....	69	57.5	46.5	34	26	27.5	23	21	15.5	12.5

What was termed in the report as the existing rate of 157.9 cents on live poultry from Mitchell to New York, N. Y., was also found to be unreasonable to the extent that it exceeds 137.6.cents.

Upon petition of defendants for a general rehearing the case was reopened for reargument, upon briefs and orally, upon the record as made in so far as it applied to the propriety of the establishment

of proportional rates to Mitchell from the Mississippi River on traffic from the eastern territory above defined, and also as regards the rate on live poultry from Mitchell to New York. The Chicago Association of Commerce intervened upon reargument and presented a brief in opposition to according the aforesaid proportional rates to Mitchell.

#### RATE ON LIVE POULTRY, MITCHELL TO NEW YORK.

The original report erred in the statement of the existing rate on live poultry from Mitchell to New York. The western classification rates live poultry second class, the rating used in arriving at what the report stated to be the existing rate. It appears, however, that by western trunk line exceptions live poultry is accorded third-class rates, so that the existing rate is \$1.43, composed of the third-class rate, Mitchell to Chicago, Ill., of 64 cents, and the second-class rate of 79 cents, Chicago to New York. Our conclusions in this respect are therefore modified, and we now find the reasonable rate on live poultry, Mitchell to New York, should not exceed that based upon the third-class rate, Mitchell to Chicago, plus the contemporaneous second-class rate Chicago to New York. Our order herein will accordingly be modified to this extent.

#### PROPRIETY OF PROPORTIONAL RATES TO MITCHELL.

The general geographical and rate situations are presented in detail in the original report and will not be repeated here. Under the present adjustment, the rates to Mitchell from the east are made by combination upon Chicago, although this was found to be unlawful in our original report where such combination exceeds the combination based on Sioux Falls.

One example of the total rates from the three points to a station west of Mitchell will suffice to show the relative disadvantage of Mitchell in attempting to compete with Sioux City and Sioux Falls in territory north and west of Mitchell. To Chamberlain, S. Dak., a point 67 miles west of Mitchell on the Chicago, Milwaukee & St. Paul Railway, hereinafter called the Milwaukee, the total second-class rate from Rochester and Syracuse, N. Y., based upon the combination to Mitchell of the local to Chicago plus the local fixed in our original report, Chicago to Mitchell, and the local beyond, amounts to \$1.629. Using the basis of proportional rates available at Sioux City and Sioux Falls, the merchants at those points can deliver the identical traffic at Chamberlain at total rates of \$1.459 and \$1.408, respectively. This situation was also presented and considered in the original report and need not now be further discussed.

The contentions of defendants and interveners come to this: First, that unreasonableness *per se* can not be predicated of the Mitchell rates; second, that whatever disparities may exist between the Mitchell rates and rates to Sioux City and Sioux Falls, no legal responsibility attaches to the Chicago, St. Paul, Minneapolis & Omaha Railway, hereinafter called the Omaha, or the Milwaukee therefor.

In support of the first proposition, rates are cited for comparable hauls to various destinations, especially in Kansas and Nebraska, higher, distance considered, than rates to Mitchell.

In support of the second proposition, the various phases of the history of the so-called equalizing rates between the Mississippi and Missouri rivers are rehearsed. The 60-cent scale is averred to have been in origin a Missouri state scale applicable to 200 miles. Originally bridging the interriver territory where that territory is narrowest, it was, under the stress of carrier competition, stretched to cover interriver hauls between the various crossings, both direct and diagonal, until it applied to distances far in excess of the original 200 miles for which it was designed. In *Warnock Co. v. C. & N. W. Ry. Co.*, 21 I. C. C., 546, there was superposed upon the 60-cent local scale structure a 55-cent proportional scale. The inference we are asked to draw is that the interriver rate structure is a close-clipped competitive adjustment by which it is not reasonable to measure rates for outside territory even though contiguous. See *Burnham, Hanna, Munger Co. v. C., R. I. & P. Ry. Co.*, 14 I. C. C., 299; *Warnock Co. v. C. & N. W. Ry. Co.*, *supra*; and *Daniels, v. C., R. I. & P. Ry. Co.*, 6 I. C. C., 458.

The carriers further argue that extreme as was the extension of the 60-cent scale to the Missouri River crossings generally, its logical northern limit was Omaha; but that the Illinois Central, which originally did not reach Omaha, carried the adjustment to Sioux City; that thereafter the Rock Island, which originally served Sioux Falls but not Sioux City, and which afterwards reached Sioux City via Sioux Falls, included Sioux Falls for a time within the same adjustment as Sioux City; and that after various changes in the rate adjustment at Sioux Falls and Sioux City the matter was put to rest by the decision in the *Daniels Case*, making the Sioux Falls rate 104 per cent of the Sioux City rate.

It is further recited that when the Milwaukee and Omaha with their own rails reached these two places, they were obliged, if they were to share the traffic, to adopt the extant rate adjustment; and finally that when these two carriers alone pressed westward to Mitchell and accorded it rates just and reasonable in themselves, they were free from legal responsibility for the low rated territory to the east; and that even if they withdrew from the traffic thereat,

they could not relieve Mitchell of whatever relative disability it would perforce continue to encounter in its two rival jobbing centers. Except that the complainant is here regarded as a destination point rather than a point of origin, the principle seems to be that of *Ashland Fire Brick Co. v. S. Ry. Co.*, 22 I. C. C., 115, that the—

test of the discrimination is the ability of one of the carriers \* \* \* to put an end to the discrimination by its own act.

The present case may, however, be distinguished in principle. If the network of lines that ramify throughout this region had been for some time completed and established, and thereafter at certain points a competitive cut were made by certain carriers, it may well be that other carriers serving the places enjoying the newly reduced rates might acquit themselves of their duty by meeting the competition in those localities only, so long as the rest of the territory served was provided with reasonable rates for service. But where a carrier in its policy of extending its line and its territory elects to acquiesce in an adjustment it finds extant at a particular point en route, it does so under some serious obligation of so adjusting rates to contiguous territory which it enters, at least eventually, so as not to perpetuate an anomalous disparity in rate adjustments.

An additional reason for holding that lines which elected to serve Mitchell could not reasonably count upon forever holding it outside the pale of rates prevalent in neighboring territory was the decision in the *Daniels Case*, *supra*. In this instance there was a clear negating of the idea that Missouri River points alone could be inter-related in the web of which the interrivers rates were the chief strands. That opinion as early as 1895 put the carriers on notice that the situation in that region, so far as rates and their adjustments are concerned, was a plastic and a changing one. In it we said that carriers—

are entitled to reasonable compensation for their services, but they should not be allowed to stimulate or retard the enterprise and natural growth of localities by relative rates which effect the undue preference or prejudice forbidden by the statute. That the task imposed by these limitations is difficult, and must often be imperfectly performed, results from the complex situations which arise and the varying conditions which enter into the problem. Hence a given relation in rates between competing towns, fairly equitable at the time of its adoption, may become, through the development of business and changes in other conditions, severely prejudicial to the town taking the higher schedule.

Another indication easily deducible from the report just quoted is that rates to destinations not themselves Missouri River cities but in the same general territory would be set with reference to rates to the river gateways proper. In the case of Sioux Falls, which is not on the Missouri River, this was effected in the *Daniels Case*, *supra*, and acquiescence in its propriety seems to have been indicated by the

voluntary extension of proportional rates to Sioux Falls, when the 55-cent proportional scale was established in the *Warnock Case*, *supra*.

While this case is doubtless prosecuted largely in the interest of Mitchell jobbers, the grounds upon which we have adjudged proportional rates appropriate from the Mississippi River to Mitchell are the reasonableness and necessity of nonprejudicial rates inbound to Mitchell. The outcome may very well be a fairer adjustment of jobbing possibilities as between Mitchell and its rivals.

Depletion of carriers' revenue is urged as a reason against according proportional rates to Mitchell. If the general level of rates in this territory were to be shown too low, there is still no reason why the disparity in the Mitchell rates as against the rates to Sioux Falls and Sioux City should be perpetuated.

We accordingly find that the proportional rate scale proposed in the original report from the Mississippi River to Mitchell on traffic from the eastern territory as defined will cure the unreasonableness and undue prejudice found in said report to exist against Mitchell, and our previous finding is therefore affirmed. An order will be entered requiring the establishment of these proportional rates to Mitchell, and also of a rate on live poultry from Mitchell to New York not exceeding the combination of the third-class rate, Mitchell to Chicago, plus the contemporaneous second-class rate, Chicago to New York.

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No. 9244.

MAYFIELD & GRAVES COUNTY COMMERCIAL CLUB

v.

BALTIMORE & OHIO RAILROAD COMPANY ET AL.

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*Submitted March 22, 1917. Decided December 17, 1917.*

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1. Class rates from trunk line territory to Mayfield, Ky., found not unreasonable, but to be unduly preferential to Paducah and unduly prejudicial to Mayfield in so far as they fail to conform to the relationship herein prescribed.
2. Rates from Mayfield, Ky., to trunk line territory on unmanufactured tobacco in hogsheads, any quantity, not found to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

*H. C. Lust and L. F. Orr* for complainant.

*R. Walton Moore and Merrell P. Callaway* for Illinois Central Railroad Company, Baltimore Steam Packet Company, Chesapeake Steamship Company, and others.

#### REPORT OF THE COMMISSION.

**DANIELS, Commissioner:**

Mayfield, the county seat of Graves county, Ky., is a local point on the Louisville-Memphis division of the Illinois Central Railroad, south of the Ohio River and 23 miles from Paducah, Ky., through which traffic to Mayfield moves. It is practically in the center of that portion of the extreme western part of the state of Kentucky which is separated from the remainder of the state by the Tennessee River. The complainant, an incorporated association composed of persons, firms, and corporations engaged in the manufacture, purchase, and sale of various commodities at Mayfield and in Graves county, asks the Commission to prescribe class rates from points in the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Virginia, Maryland, and West Virginia to the extent that they or any part of them are included in what is hereinafter called trunk line territory, which shall not exceed by more than 2 per cent the class rates to Paducah. The joint through class rates to Mayfield, at the time of the hearing, substantially equal to the aggregate of class rates to and from Paducah, are attacked as intrinsically unreasonable, solely because the factors from Paducah to Mayfield, when used as parts of the through rates, are alleged to be excessive. Although the complaint assailed the class rates to Mayfield as unjust,

unreasonable, unjustly discriminatory, and unduly prejudicial in that they exceed those to Paducah, Muldraugh, Jonesburg, Morganfield, Bardwell, Eddyville, and Louisville, Ky., and Cairo, Ill., this issue in respect to discrimination and preference was virtually confined to Paducah.

As a second and separate ground of complaint the through rates on unmanufactured tobacco, in hogsheads, from Mayfield to trunk line territory are alleged to be unreasonable, unjustly discriminatory, and unduly prejudicial. The rate factor from Mayfield to Paducah, a separately established part of the through rates, is the essential feature complained of. Conformably with the prayer as to class rates to Mayfield, we are petitioned to prescribe rates on unmanufactured tobacco from Mayfield which shall not exceed by more than 2 per cent the rates from Paducah. These two phases of the case will be detailed separately.

The local scale of class rates applicable from Paducah to Mayfield, governed by the southern classification, which has been in effect for more than 20 years, is:

1	2	3	4	5	6
37	31	25	22	19	16

These rates, constituting the factor for the end of the haul from New York to Mayfield, are the same as the scale of rates for a distance of 23 miles, but, as they are published specifically, are not, strictly speaking, distance rates.

The class rates from New York to Paducah and Mayfield, which are governed by the official and southern classifications, respectively, may be taken as representative. They were at the time of the hearing as follows:

	1	2	3	4	5	6
Paducah:						
All rail.....	94.6	82	63	44.2	37.8	31.6
Rail and water .....	84.6	74	57	40.2	33.8	26.6
Mayfield:						
All rail.....	132	113	88	66	57	48
Rail and water.....	122	105	82	62	53	45

The rates from New York reflect the increase following *The Five Per Cent Case*, 32 I. C. C., 325. Subsequently the all-rail class rates from New York to Paducah were increased, effective on July 16, 1917, to:

1	2	3	4	5	6
108	95	72	50.5	43	36

and the rail-and-water rates to:

1	2	3	4	5	6
98	87	66	46.5	39	33

Though the all-rail rates and the rail-and-water rates from New York to Mayfield were generally constructed at the time of the hearing on the basis of the combination on Paducah, since the increase of the class rates to Paducah this is no longer true. The joint through rates to Mayfield were generally continued on the same level, save for about 50 commodities which take combinations on the river.

The basis of rates from eastern territory to the territory in which Mayfield is located; from central freight association territory to the same destination territory; from points south of the Ohio River to points north of the Ohio River; from the east to points immediately west of the Mississippi River; and from points immediately west of the Mississippi River to the east, is ordinarily the combinations over the river crossings. The only commodity received at Mayfield which pays the same rate of freight as that to Paducah is lumber, the rate on which is not here involved.

Mayfield, whose population is about one-third that of Paducah, has approximately 7,000 inhabitants, and Graves county has a population of between 38,000 and 40,000. Paducah is located on the south side of the Ohio River near the confluence of the Tennessee and Cumberland rivers. Mayfield is not on navigable water. The Illinois Central, the Chicago, Burlington & Quincy Railroad, and the Nashville, Chattanooga & St. Louis Railway companies reach Paducah, but, as before stated, Mayfield is a local point on the Illinois Central. The trunk line scale governed by the official classification is extended to Paducah as an Ohio River point, i. e., the class rates are 120 per cent of the New York-Chicago class-rate scale. This basis was established to Paducah in competition with Cairo, Louisville, and other Ohio River crossings before the Illinois Central acquired a line to Paducah.

The principal commodities moving from trunk line territory into Mayfield are, generally: Wools and woolens, shoes, hats, silks and dry goods, candies, clothing, findings, wares manufactured of enamel, tin, and earth, paper of all kinds, drugs and perfumes, cigars, wall paper and flour paste, paints and varnish, common soap, cut glass, wall board, fencing, wire, staples, and bale ties. Other than machinery and wool, the greater part of the traffic from trunk line territory to Mayfield is in less than carloads.

The all-rail traffic moves principally through Cincinnati, Ohio, Louisville, and Paducah; the rail-and-water traffic through Louisville and Paducah. The movement by way of Indianapolis, Ind., and Chicago is slight. The distances to Mayfield from New York are: via Newport News, Va., 1,092 miles; via Louisville, 1,113 miles; via Indianapolis, 1,220 miles; via Terre Haute, Ind., 1,159 miles;

via Chicago, 1,314 miles, and via Effingham, Ill., 1,160 miles. The haul on the rails of the Illinois Central ranges from 209 miles from Effingham to 408 miles from Chicago. The natural route of the traffic is via Louisville, distant via the Illinois Central, 248 miles from Mayfield. Defendants show the distance from New York to Mayfield as 1,121 miles, which is less than an average of the distances stated above.

The traffic from New York to Mayfield is not enough to warrant the running of a through car. There are through merchandise cars from New York to Cincinnati, Louisville, and Paducah, at which points transfer is made; in the first instance, to the through car from Cincinnati to Paducah, where shipments for Mayfield are rehandled and placed in the Mayfield car, which the Illinois Central operates; second, in a through car from Louisville to Mayfield; and, third, at Paducah into the Mayfield car. At least 40 per cent of the traffic is rehandled at Louisville and 60 per cent is rehandled at Paducah. Of the 60 per cent rehandled at Paducah, 25 per cent is there received from the Nashville, Chattanooga & St. Louis Railway, which, of course, necessitates rehandling.

There is a good pike between Paducah and Mayfield, which was formerly used by mule teams in moving freight between the two towns. Recently motor trucks have been installed which haul from 50 to 75 tons of freight from Paducah to Mayfield a week. The charges for the motor truck service range from 25 cents per 100 pounds for first-class freight down to 14 cents on oats and feed stuffs. The movement, by motor truck, moreover, is from the car to the store door. The cost of draying less-than-carload freight at Mayfield, apparently from the car to the store door, is 4 cents per 100 pounds and thus the merchant at Mayfield is enabled to save approximately 16 cents per 100 pounds on first-class freight by using the motor trucks. On account of this motor-truck competition, to prevent the filing of this complaint, and to compose outstanding differences between the carrier and Mayfield shippers, representatives of the Illinois Central offered to reduce the rates from Paducah to Mayfield to—

1	2	3	4	5	6
27	23	20	18	14	12

which would represent reductions from the present rates of 10, 8, 5, 4, 3, and 4 cents, respectively, on the various classes. This offer was rejected.

While, as previously indicated, the rates assailed are through rates, complainant states that it does not consider the scale from trunk line points to Paducah applicable at the time of the hearing as too low

or subnormal, and the evidence is mainly directed to an endeavor to demonstrate that the local scale from Paducah to Mayfield is too high when used essentially as a factor of the through rate. In this connection complainant presents an exhibit of class rates, mainly for distances approximately the same as that from Paducah to Mayfield. The rates cited are principally distance class rates applicable in Virginia, Iowa, Wisconsin, Illinois, Michigan, Minnesota, South Dakota, Wyoming, Oklahoma, Nevada, Arkansas, Missouri, and Colorado. The only other rates with which comparisons are made for distances greatly in excess of that from Paducah to Mayfield, are the scale of proportional class rates from Chicago to Cairo applicable only on traffic destined to southeastern territory, which for 364 miles is as follows:

1	2	3	4	5
35	30	22	15	13

and a scale from Cincinnati to the Virginia cities, which for 456 miles was at the time of the hearing:

1	2	3	4	5
32	28	22	15	12

These are apparently the proportional or basing rates formerly published on traffic destined to points in Carolina territory. Later tariff issues name joint through rates from Cincinnati to Carolina points and do not show the basing rates up to Virginia cities. The present rates from Cincinnati to the Virginia cities proper are 75½, 65½, 49, 33½, 28½.

The other scales presented portray a range from—

Miles	1	2	3	4	5
25	13.6	11.6	9	6.8	4.7

which is an 80 per cent distance scale applicable in Iowa on traffic destined to points on connecting lines, to—

1	2	3	4	5
28	24	19	17	15

which is the intrastate scale of the Illinois Central in Tennessee for distances from 20 to 25 miles.

We are, however, especially referred to the following scales:

Between—	Distance (miles).	1	2	3	4	5	6
Paducah and Mayfield.....	23	37	31	25	22	19	16
Memphis and Tipton, Tenn....	23	20	17	15	13	12	11
Louisville and Muldraugh.....	27	20	16	14	12	10	9
Evansville and Jonesburg, Ky..	26	24	21	17	15	14	12
Henderson and Morganfield, Ky	23	26	22	18	16	14	12
Cairo and Bardwell, Ky.....	22	25	23	20	18	15	13
Paducah and Eddyville, Ky....	33	25	20	17	15	12	10

Defendants explain that Tipton is 10 miles from Randolph and Watts, Tenn., both located on the Mississippi River, and which have a regular boat service.

Six miles from Muldraugh is West Point, Ky., located on the Ohio River and through which the Illinois Central passes, and which is also served by the Louisville, Henderson & St. Louis Railway, which follows the river from Louisville to Henderson, Ky. The rates to Muldraugh are made with respect to water and cross-country competition.

Although Jonesburg is 26 miles from Evansville, it is but 14 miles from Henderson. The rates from Evansville are made 3 cents over Henderson.

Morganfield is 6 miles from Uniontown, Ky., between which and Henderson the rates are made in direct competition with the Ohio River.

Bardwell is 14 miles from Wickliffe, Ky., which is located on the Mississippi River and reached by the Illinois Central and the Mobile & Ohio railroads. Wickliffe has a boat service from Cairo of three round trips per day. Just across the Mississippi River from Bardwell is Laketon on the Mississippi River and served by the Mobile & Ohio. The Illinois Central parallels the Mobile & Ohio and meets its rate from Cairo to Bardwell.

Eddyville is located on the Cumberland River. There is constant and active water service between it and Paducah.

The scale of proportional rates applying from Chicago to Cairo was put in by the Illinois Central and Chicago & Eastern Illinois railroads to meet the reduction from St. Louis to the southeast of 5 cents, first class, from the previous basis. The proportional rates from Chicago and St. Louis were established with a view of enabling the carriers in those territories to more nearly compete in the southeast with New York and the east.

The history of the scale from Cincinnati to the Virginia cities has been detailed in many cases before the Commission, and it seems unnecessary to say more in reference to it than to indicate its inappropriateness in comparison with the local scale of class rates from Paducah to Mayfield.

We are also referred to the scale of class rates established by the Commission in *Railroad Commission of Louisiana v. St. L. S. W. Ry. Co.*, 34 I. C. C., 472, for 21 and not over 24 miles of 18, 16, 14, 12, and 10 for the numbered classes. This class scale was never operative. In *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, for 20 and not over 30 miles the rates prescribed for the first five classes were 30, 25, 21, 18, and 14.

Reference is also made to the scale of reasonable maximum class rates prescribed by the Commission in *The Missouri River-Nebraska Cases*, 40 I. C. C., 201, for application between Sioux City and Council Bluffs, Iowa, St. Joseph and Kansas City, Mo., Atchison, Kans., and points in the state of Nebraska, for distances from 21 to 25 miles, as follows:

1	2	3	4	5
27	22.9	18.9	16.2	12.1

The base rate used by the Commission, 22 cents first class, covered direct station expenses of handling less-than-carload shipments in the territory under consideration, and allowed for general expenses, taxes, depreciation, and return upon property. To this base rate was added a charge for the cost of haul, 1 cent for each 5 miles of the haul. Complainant contends that the rates from New York to Paducah include the terminal costs, and that, on the basis above outlined, the rate to Mayfield should be but 5 cents over the rate to Paducah. Complainant evidently overlooks the fact that in the *Missouri River-Nebraska Cases* the scale prescribed by the Commission for distances from 681 to 700 miles was:

1	2	3	4	5
137	116.4	95.9	82.2	61.6

and that for transportation over two or more lines arbitraries were permitted to be added of 5, 4, 3½, 3, and 2½.

Defendants submit an exhibit setting out 17 distance scales for 23 miles, applicable on the main line of the Illinois Central; the Louisville-Memphis division of that road, on which Mayfield is located; the Yazoo & Mississippi Valley Railroad; Mobile & Ohio Railroad; Louisville & Nashville Railroad; Nashville, Chattanooga & St. Louis Railway; Southern Railway in Mississippi; New Orleans, Mobile & Chicago Railroad; Gulf & Ship Island Railroad; Mississippi Central Railroad; New Orleans & Northeastern Railroad; Alabama & Vicksburg Railway; Southern Railway; Atlantic Coast Line; Central of Georgia Railway; Seaboard Air Line Railway; and the St. Louis & San Francisco Railroad. The average of these scales is as follows:

1	2	3	4	5	6
37	32	25	23	20	17

The average cited is not persuasive of what would be a reasonable factor for the part of the haul here involved, because many of the roads cited operate in a different locality and under conditions not demonstrably similar with those between Paducah and Mayfield. The class scale of the Louisville & Nashville for the distance here involved is lower than the average and more nearly indicates a reasonable scale of applicable charges.

Defendants insist that the real question before the Commission is whether or not the rates are reasonable as a whole, and compare the rates from New York to Mayfield with the rates from New York to other Southern points for substantially the same distance or less. The following are merely illustrative:

From New York to—	Distance (miles).	All rail.					
		1	2	3	4	5	6
Mayfield.....	1,121	132	113	88	66	57	48
Dawson Springs, Ky.....	1,037	135	116	93.5	72	63.5	53
West Point, Ga.....	964	131	112	99	85	69	57
Birmingham, Ala.....	990						
Montgomery, Ala.....	1,052						
Corinth, Miss.....	1,065	143	123	103	80	67	58
Gibson, Tenn.....	1,096	154	130	105	83	68.5	60

In *Fourth Section Violations in the Southeast*, 30 I. C. C., 153, we prescribed as maximum rates to be observed at intermediate points the following:

	1	2	3	4	5	6
750 miles, one line.....	133	114	98	86	73	62
Excess over Mayfield for 1,121 miles.....	1	1	10	20	16	14

Defendants also contend that a comparison of class rates from Chicago and from central freight association territory to points in the southeast with those from New York to Mayfield demonstrates the reasonableness of the latter. A few examples will sufficiently disclose the comparisons:

From—	To—	Miles.	1	2	3	4	5	6
New York.....	Mayfield.....	1,121	132	113	88	66	57	48
Chicago.....	Atlanta, Ga.....	731	142	122	103	83	69	55
Do.....	Brookhaven, Miss.....	860	129	109	93	78	64	48
Peoria, Ill.....	Tylertown, Miss.....	751	162	132	111	87	71	46
Chicago, Ill.....	Macon, Ga.....	819	142	122	103	83	69	55
Milwaukee, Wis.....	Hazlehurst, Miss.....	1,005	135	114	97	81	66	55

TOBACCO.

Mayfield is located in what is called the "black patch," a producing territory of "dark-fired" tobacco, which comprises, roughly, the counties in Kentucky and Tennessee lying west of an irregular line drawn from the Ohio River along the eastern border of Breckinridge county, Ky., southward and then along the eastern border of Simpson county, Ky. The tobacco is cured in the same manner as smoked meat. Approximately 80 per cent of this kind of tobacco is exported;

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that domestically consumed is used in the manufacture of snuff. Mayfield is the largest of all the tobacco markets in the black patch, approximately 25,000,000 pounds, or 17,992 hogsheads, being shipped in the year 1916 from that station, when Paducah shipped 10,000,000 pounds. It is estimated that the movement during 1917 will be 20,000 hogsheads. The annual shipments in the years 1911, 1912, 1913, and 1915 were about 11,250 hogsheads, so that the movement has sensibly increased of late. The increase in volume has not been accompanied by a decrease in price; on the contrary, while the average prices per pound in 1911, 1912, and 1914 were 6.5, 9, and 10 cents, the prices in 1915 ranged from 4.5 to 10 cents and in 1916 from 6 to 12 cents. Indeed, tobacco sold at Mayfield commands a better price to the extent of 1 cent per pound than at certain competing markets such as Paducah, Benton, and Murray, Ky., not so well established as is Mayfield.

The through rates on unmanufactured tobacco, in hogsheads, any quantity, to New York are: All rail, 56.2 cents; rail and water, 53.2 cents per 100 pounds. From the record it appears that the components of the all-rail rate are: A commodity rate of 12 cents per 100 pounds from Mayfield to Paducah and a fourth-class rate thence eastward. The tariffs show that both the all-rail and the rail-and-water rates from Mayfield to New York are joint through rates. Tobacco, under the official classification governing from Paducah, is rated fourth class; under the southern classification applicable from Mayfield to Paducah, the same. The fourth-class rate from Mayfield to Paducah is 22 cents per 100 pounds. The Illinois Central, however, excepts from the southern classification and between points on its road rates unmanufactured tobacco, in hogsheads, sixth class. The sixth-class rate from Mayfield to Paducah is 16 cents per 100 pounds, but the commodity rate, which by this proceeding is sought to be decreased to 1 cent per 100 pounds, is but three-fourths of the excepted rate.

Complainant compares the commodity rate with rates on unmanufactured tobacco, applicable by way of the Cleveland, Cincinnati, Chicago & St. Louis Railway, from points in Ohio and from Louisville to Dayton and Middletown, Ohio. The Dayton and Middletown rates are local and are not reshipping rates. They vary from 7.4 cents per 100 pounds for 24 miles to 13.1 cents per 100 pounds for 99 miles. Dayton and Middletown were selected because the American Leaf Tobacco Company has plants there. Complainant also states the Wisconsin distance scale reshipping rates for similar distances of 24 to 100 miles to be from 6.6 to 11.4 cents. Complainant cites the rates and we merely re-cite them without comment because

the circumstances and conditions of transportation are not shown to be similar to those obtaining from Mayfield to Paducah.

More apt comparisons from the standpoint of neighboring territory are those of complainant stating certain rates on the commodity in issue from points in Kentucky to Cincinnati and Louisville. The rates cited trend upward from 8 cents per 100 pounds for 21 miles from Walton, Ky., to Cincinnati, to 20 cents per 100 pounds for 120 miles from Richmond, Ky., to either Cincinnati or Louisville. The average distance is 97 miles and the average rate 15.25 cents. Defendants state that the eastern Kentucky adjustment is peculiar to itself. There the carriers equalize the rates through the various gateways and the adjustment is highly competitive. Complainant failed to offer any evidence as to the reasonableness of the entire through rates, contenting itself with evidence offered to show that the commodity factor from Mayfield, as a part of a through rate to the trunk line territory, is unreasonable.

This issue defendants sought to meet by showing the rates to New York on unmanufactured tobacco from various points in Kentucky and Tennessee less distant from New York than is Mayfield on the lines of the Illinois Central, Nashville, Chattanooga & St. Louis, Louisville & Nashville, and Tennessee Central Railroads. In but few instances are the rates lower than those from Mayfield to New York, and in the majority of such instances those points are served by two or more carriers. From Hardin, Ky., common to the Nashville, Chattanooga & St. Louis and Illinois Central; from Hopkinsville, Ky., reached by the Tennessee Central, Louisville & Nashville, and Illinois Central, and from Clarksville, Tenn., served by the Tennessee Central and the Louisville & Nashville, the rate to New York in each instance is 54 cents per 100 pounds. Hopkinsville is nearly 100 miles, and Clarksville is 126 miles nearer New York than is Mayfield. The Illinois Central last year handled 10,487 hogsheads of unmanufactured tobacco from Hopkinsville, and the record does not state the additional quantity handled from there by the Louisville & Nashville and the Tennessee Central. From the record it appears that the rates from all these points are made on the same basis as is the Mayfield rate, i. e., combination. The tariffs show that the rate from these three points to New York is a joint through rate.

Rates on unmanufactured tobacco on the Illinois Central, Nashville, Chattanooga & St. Louis, Tennessee Central, Louisville & Nashville, and Cincinnati, New Orleans & Texas Pacific Railroads to Hopkinsville, Owensboro, Louisville, Evansville, Henderson, Lexington, Danville, Clarksville, Cincinnati, and other tobacco markets in the same territory are, for distances similar to that from Mayfield to Paducah, practically the same as the rate from Mayfield to Paducah.

Tobacco does not load heavily; the average weight of all carload shipments from Mayfield during the year from December 1, 1915, to November 30, 1916, was 27,899 pounds per car. Defendants use an average of 28,000 pounds per car and compute the average value of such a carload, on the basis of 8.5 cents per pound, as \$2,380 and from the all-rail rate to New York derive a revenue per car-mile based on the loaded mileage of 14 cents. These data are compared with similar computations on clay, lumber, fluorspar, cottonseed meal, and cotton transported from representative points in the south to New York. While probably no lumber moves from Mayfield to New York, the value of a car of lumber is about one-eighth that of a car of tobacco, the average freight charges per car are about the same and the revenue per car-mile is the same. A carload of clay from Clayburn, Ky., to Trenton, N. J., weighing 74,000 pounds, is worth \$148; the rate is 29.6 cents per 100 pounds; the average freight charges \$219.04 per car, exceeding those on tobacco from Mayfield by over \$61, and the revenue per car-mile is 21 cents. Briefly, all the commodities except cotton are materially less valuable than tobacco, load more heavily, pay lower rates, and yet none of them except fluorspar and cottonseed meal produces as low revenue per car-mile.

As an initial point in its brief complainant asserts that it is a generally accepted principle of rate making, expressed by the Commission in many cases, that through rates should be less than the sum of the intermediates. Conversely, defendants argue that there is no presumption of law or fact that through rates are unreasonable if not less than the sum of the intermediates, and in this connection cite one of the reports of the Commission as follows:

The Seaboard Air Line claimed upon the hearing and claims now that the sum of these locals is conclusively presumed to be a reasonable through rate if the locals themselves are reasonable. This proposition the Commission did not and does not accept. It may, in exceptional cases, happen that the through rate may properly be even greater than the sum of the locals; it often happens that it is exactly the same, but it is also frequently the case that it should be less. If rates were to be established *de novo* upon correct principles, it would generally be less.

*Randolph Lumber Co. v. S. A. L. Ry.*, 14 I. C. C., 338. In *Appalachia Lumber Co. v. L. & N. R. R. Co.*, 25 I. C. C., 193, the Commission refers to the theory that through rates ought not to be constructed by combination of locals, but cites the *Randolph Lumber Case* as authority for the statement that that theory has not been crystallized into a settled doctrine, and says:

To sustain the argument of the complainants we should be required without any further showing to reduce all class and commodity rates between points north and south of the Ohio River where those rates are now made upon the 48 I. C. C.

combination. This Commission has never held that this fact alone was sufficient to call for such a reduction. Where, upon examination, it has seemed that the through charge was excessive, we have reduced the rate applicable to the through carriage to a point less than the local rate for a portion of the distance. \* \* \* But before making a reduction upon this ground we should be satisfied either that the rate is unreasonable or that discrimination results.

In fact, later in its brief complainant says: "We are, of course, fully cognizant that the mere fact that Mayfield rates based on Paducah does not show them to be unreasonable." The second point in argument in complainant's brief is a corollary of the first, to wit, that—

the conditions of haulage or carriage between trunk line territory and Paducah, on the one hand, and between trunk line territory and Mayfield, on the other, being the same, an excessive charge for the last 23 miles of over a 1,000-mile haul, being a discrimination against Mayfield, is a violation of section 2 of the act.

Several of the cases cited by complainant have reference to the principle that as the distance of transportation increases, differentials tend to diminish until they reach the vanishing point, a doctrine which we think has no exact application here. We are also referred to cases in which the Commission has held that for long hauls a difference of a comparatively few miles between points of production or consumption is generally not recognized or is disregarded. In other words, complainant invokes, as determinative of both phases of this proceeding, the familiar rule that the last few miles of a long distance movement are not charged for or should not be charged for at the full local or at high arbitraries for that relatively minor movement. The reason for this rule is that the cost of the through movement may be less than the aggregate of the costs of the two movements for which the separately established rates are charged. The fact that the cost of the through movement is generally less is in part due to there being but two terminal expenses where there may be four or more where two distinct hauls are made on the separately established intermediate rates. But the evidence is clear in this case, so far as the inbound movement of class traffic is concerned, that that tonnage, practically all of which is in less than carloads, is not sufficient to warrant the running of a through package car from trunk line territory to Mayfield. If we take the simplest movement, that from New York through Paducah to Mayfield, the packages must be unloaded at Paducah, separation made between those for Paducah and those for Mayfield, and the Mayfield traffic reloaded and rehandled into a car for Mayfield. The assumption that there are but two terminal expenses in this case fails. On the tobacco traffic per contra from Mayfield to trunk line territory the movement is practically all in carloads, and therefore it would appear that

the principle should apply that the through rate should be lower than the sum of the intermediates. But what the Commission has said in that respect is that the through rate should not normally be the aggregate of the full locals. Unmanufactured tobacco from Mayfield does not take the full locals; if it did the rate from Mayfield would be that for fourth class throughout the movement instead of the factor from Mayfield to Paducah being a commodity rate. Apparently defendants have recognized the volume of the tobacco tonnage from Mayfield in the establishment of the commodity rate.

In *St. Matthews Produce Exchange v. L. & N. R. R. Co.*, 32 I. C. C., 233, potatoes and onions were shipped from local stations on the Louisville & Nashville Railroad near Louisville, Ky., to various points in the United States. The local rate from St. Matthews, Ky., to Louisville, a distance of 5 miles, was 5 cents; from O'Bannon, Ky., 13 miles to Louisville, 7 cents. The through hauls were from 300 to 1,000 miles; for instance, the rate from St. Matthews to Americus, Ga., a distance of 634 miles, was 43 cents. We invoked the principle that the local rate should be considered in connection with the entire haul and reduced the rate from St. Matthews to 3 cents and from O'Bannon to 5 cents to be applied as factors in the through transportation via Louisville. There are points of similarity between the two cases, it being shown as a prominent feature of the decision that the Louisville & Nashville was charging higher rates than were other roads for substantially similar services.

While in the instant case the factor in the through rate covering the service from Paducah to Mayfield appears substantially the same in amount as the main-line distance scale of the Illinois Central for 23 miles, we are of opinion and find that the use of this factor constitutes undue prejudice to Mayfield and undue advantage to Paducah; and adjudge that joint through class rates from points in trunk line territory to Mayfield will effect undue prejudice to Mayfield to the extent that they exceed the contemporaneous class rates from the same points of origin to Paducah on the six numbered classes, respectively, by more than the following amounts:

Class -----	1	2	3	4	5	6
Cents -----	27	23	20	18	14	12

This finding applies to the all-rail and rail-and-water class rates to Paducah. We are mindful of the fact that rates made by the addition of these amounts to the contemporaneous class rates to Paducah will issue in all-rail rates slightly higher than at present on the first four classes, and the same on classes 5 and 6 as now exist. Their use, however, will remove the relative disparity in the factors in the through rate. At present these are to Paducah, first class, all rail, 94.6 cents and from Paducah to Mayfield 37 cents; these

will become \$1.08 and 27 cents, respectively. Full combination on the basis of the contemporaneous rates to and from Paducah would result in an all-rail rate of \$1.45 first class.

Although but 2 per cent of the haul from New York to Mayfield is in southern classification territory, in which higher rates apply than in official classification territory, its location there places it beyond a long-established rate boundary which involves in this case rehandling of the freight. On this record we are not prepared to find that the through rates attacked in this proceeding are unreasonable.

An order will be entered in conformity with our findings herein.

COMMISSIONERS AITCHISON, WOOLLEY, and ANDERSON did not participate in the disposition of this case.

48 I. C. C.

**INVESTIGATION AND SUSPENSION DOCKET No. 1069.**  
**GRAIN TRANSIT AT KANSAS STATIONS.**

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*Submitted July 23, 1917. Decided January 8, 1918.*

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**Proposed cancellation of waiver of out of line haul charges on grain, grain products, etc., from specified Missouri River points to New Orleans, La., Mobile, Ala., or other specified points, milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans., and the effected cancellation of waiver of similar charges on like traffic moving under proportional rates to Gulf ports for export, found justified. Orders of suspension vacated.**

*J. C. LaCoste* for respondents.

*G. G. Moffitt* for protestants.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS CLARK, HALL, AND ATCHISON.**

**By DIVISION 3:**

By schedules, filed to become effective April 18 and May 19, 1917, the Chicago, Rock Island & Pacific Railway Company and Jacob M. Dickinson, its receiver, hereinafter called respondents, proposed to discontinue the waiver of out of line haul charges on grain, grain products, hay, straw, and seeds originating at Missouri River points, viz, Armourdale (Kansas City, Kans.), Atchison, Fort Leavenworth, and Leavenworth, Kans.; Council Bluffs, Iowa; Kansas City, North Kansas City, and St. Joseph, Mo.; and Omaha and South Omaha, Nebr., and destined to New Orleans, La., Mobile, Ala., or certain other specified points, milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Upon protest by the Hutchinson Traffic Bureau, on behalf of four of its members, local millers, the schedules were suspended until February 16, 1918. Rates are stated in cents per 100 pounds.

There was also drawn in question, without objection by respondents, the propriety of the provision republished in the suspended tariff canceling the waiver of similar charges on like traffic moving under proportional rates to Gulf ports for export. This latter cancellation, which became effective as to Hutchinson on November 24, 1915, was protested but not suspended. It was extended, on December 8, 1916, to shipments accorded transit at Abilene, Enterprise, Salina, and Woodbine. Following the equalization, in March, 1917, of the export and domestic rates to New Orleans by an increase in the export rate of approximately 1 cent, the cancellation herein suspended was proposed.

Woodbine, Enterprise, Abilene, and Salina are located on respondents' Salina branch, connecting with its main line at Herington, Kans., the respective distances to the junction being 8.9, 21.6, 26.8, and 49 miles. Hutchinson is on respondents' El Paso line, 74 miles southwest of Herington. On shipments from and to the points of origin and destination concerned, accorded transit at the milling points named, out of line hauls from Herington to the milling points and return are necessary. Under respondents' published distance scale the charges for those hauls are: Woodbine and Enterprise, 1 cent; Abilene, 2 cents; Salina, 2½ cents; Hutchinson, 4 cents. Protestants are interested in the situation only as it affects Hutchinson. The traffic affected consists almost entirely of wheat and its products, and protestants' evidence was confined thereto.

Protestants do not contend that the increased charges for the through transportation would be unreasonable *per se*. The rates on wheat to New Orleans are 20 cents from Kansas City, Leavenworth, Atchison, and St. Joseph, and 21 cents from Council Bluffs and Omaha. By way of the shortest practicable routes over any lines the ton-mile earnings range from 3.95 mills, for a distance of 1,061.5 miles from Omaha, to 4.61 mills, for a distance of 867.5 miles from Kansas City; while by way of respondents' shortest available route through Herington, excluding the out of line movement, the ton-mile earnings range from 3.06 mills, for a distance of 1,372 miles from Council Bluffs, to 3.29 mills, for a distance of 1,214 miles from Kansas City. If the out of line movement is permitted without additional charge, the added distance would, of course, decrease the earnings shown above.

Protestants submitted considerable evidence to show that there is and will be a shortage of wheat in the territory from which they ordinarily draw their supply, and that it will therefore be necessary for them to obtain a portion of their wheat at the Missouri River markets, from which, they insist, they will be cut off by the addition of the charge for the out of line movement. But it is well settled that the effect upon a shipper's business is not conclusive as to the lawfulness of a rate.

Protestants allege undue preference of Wichita, Kans., a point on respondents' line, 73.2 miles south of Herington. While shipments from Missouri River points to the destinations in question would necessitate no out of line movement if accorded transit at Wichita, protestants maintain that respondents have preferred that point by eliminating the waiver of various out of line haul charges at Hutchinson, while adding to such waivers at Wichita. They refer particularly to the fact that respondents waive such charges on wheat shipped from points in the Kansas wheat belt directly west of Hutch-

inson through Herington to Wichita, accorded transit at the latter point and reshipped to points north and east of Herington. While objecting that that situation is not included in this case, it is explained for respondents that the charges on shipments from such western points milled at Wichita are waived because of the competition of the Atchison, Topeka & Santa Fe and Missouri Pacific railways. There is, of course, no out of line haul on similar shipments milled at Hutchinson. Respondents at present waive such charges at Hutchinson on shipments from a considerable territory of origin to considerable territory of destination, but make the exception with respect to traffic from the Missouri River to New Orleans because of the low rates.

The facts of record do not disclose undue prejudice to protestants, and the increased charges on the traffic appear to be reasonable. We find that respondents have justified the cancellations in question, and the orders of suspension will be vacated.

48 L. C. C.

No. 5764.

BASCOM-FRENCH COMPANY ET AL.

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY  
COMPANY ET AL.

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*Submitted October 11, 1916. Decided December 20, 1917.*

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On rehearing, rate of 34 cents per 100 pounds on yellow-pine lumber and articles taking lumber rates, in carloads, from Texas and Louisiana producing territory to Las Cruces, N. Mex., not found unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

*Rufus B. Daniel* for complainants.

*T. J. Norton, F. B. Houghton, F. E. Andrews,* and *Robert Dunlap* for defendants; *W. R. Brown* for Rio Grande & El Paso Railway Company; *C. W. Brosius* for Texas & Pacific Railway Company; and *E. H. Thornton* for Sunset-Central lines.

REPORT OF THE COMMISSION ON REHEARING.

BY THE COMMISSION:

This case was originally decided June 14, 1915, 34 I. C. C., 388. By a complaint, filed May 7, 1913, it was alleged that defendants' rate of 34 cents per 100 pounds on lumber and articles taking the same rates, in carloads, from points in eastern Texas and Louisiana to Las Cruces, N. Mex., was unreasonable, unjustly discriminatory, and unduly prejudicial, and reparation was asked. We found that the 34-cent rate was, and for the future would be, unreasonable to the extent that it exceeded or might exceed 28 cents. Reparation was denied. On November 2, 1915, upon petition of the Atchison, Topeka & Santa Fe and the Rio Grande, El Paso & Santa Fe railroad companies, hereinafter called petitioners, the case was reopened for further hearing, but our order remained in full force and effect. Rates are stated in cents per 100 pounds.

The shipments originated at Lake Charles, Alexandria, and other points in Louisiana and at Beaumont, Dyersdale, and other points in eastern Texas. They moved over defendants' lines by way of Houston, Tex., and the Galveston, Harrisburg & San Antonio Railway to El Paso, Tex., and by way of Sweetwater, Tex., and the Texas & Pacific Railway to El Paso, and thence to Las Cruces, a local point on the Atchison, Topeka & Santa Fe, 44 miles north of El Paso, over the Rio Grande & El Paso Railroad, now the Rio Grande, El Paso & Santa Fe, and the Atchison, Topeka & Santa Fe. All the lines of

the Atchison, Topeka & Santa Fe will be referred to hereinafter as the Santa Fe.

For petitioners it was stated that for some time prior to March 9, 1911, the rate to Las Cruces from points of origin on the lines of defendants other than the Santa Fe was 34 cents, composed of a proportional rate of 18 cents to El Paso, applicable on traffic for New Mexico, Arizona, and Mexico, and local rate of 16 cents from El Paso to Las Cruces. The Santa Fe was not a party to the 18-cent proportional rate. From points on the Santa Fe a joint through rate of 34 cents applied by way of Sweetwater, Tex., and the Santa Fe through Belen, N. Mex., a longer haul than by way of El Paso. The rate by way of the Belen route was established, it is asserted for petitioners, in order to meet the rate through El Paso. In 1910 Bascom-Porter Company, the predecessor of complainant Bascom-French Company, filed a complaint attacking petitioners' 16-cent local rate from El Paso to Las Cruces. We found that rate to be unreasonable to the extent that it exceeded 10 cents. *Bascom-Porter Co. v. A., T. & S. F. Ry. Co.*, 24 I. C. C., 297. Pending the decision in that case the 18-cent proportional rates to El Paso were canceled on traffic for New Mexico, and on March 9, 1911, a joint rate of 34 cents was established from the points of origin concerned, including stations on the Santa Fe, to Las Cruces by way of El Paso. On the same date the application of the 34-cent rate by way of Belen was canceled.

At the time the shipments moved and at present the local rates from the points concerned to El Paso over the routes of movement were and are 25 cents. At the time of movement a rate of 29 cents applied to Deming, N. Mex., a point located 88 miles northwest of El Paso, and served by the Southern Pacific and the El Paso & Southwestern companies and the Santa Fe. When the joint rate of 34 cents was established to Las Cruces by way of El Paso, the rate to Deming was increased to 34 cents, but the increase was found not justified in *Deming Lumber Co. v. S. P. Co.*, 24 I. C. C., 598. On October 1, 1915, after the expiration of our order in that case, the rate to Deming was increased to 34 cents and that rate is still in effect.

The distances from Lake Charles, a representative point, to El Paso and Las Cruces are 973 miles and 1,017 miles, respectively. Based on those distances and an average loading of 48,000 pounds, the 25-cent rate to El Paso yields 5.14 mills per ton-mile and 12.3 cents per car-mile; the 34-cent and 28-cent rates to Las Cruces yield ton-mile earnings of 6.69 mills and 5.5 mills, respectively, and car-mile earnings of 16.04 cents and 13.2 cents, respectively, while the 34-cent rate to Deming, a distance of 1,061 miles, yields 6.409 mills per ton-mile and 15.381 cents per car-mile.

By way of comparison, numerous rates from the territory in question to local stations on the Santa Fe were cited for petitioners. For example, rates of 39 cents to Dona Ana and Rincon, N. Mex., and 45 cents to points as far north as Albuquerque, N. Mex., including Belen, and east from Belen to Iden, N. Mex. To Clovis, N. Mex., the rates were 27.5 cents from Santa Fe stations, 30.5 cents from points on connecting lines in Texas, and 32.5 cents from stations on connecting lines in Louisiana. To the designated points north of Belen and east thereof the rates apply by way of Sweetwater and Belen. Distance considered, the 34-cent rate to Las Cruces over the routes of movement compared favorably with the rates cited.

For petitioners it is insisted that the local rate of 25 cents to El Paso, which was prescribed by the Railroad Commission of Texas, from Texas points, should not have been used as a measure of the reasonableness of rates to Las Cruces. *Continental Lumber & Tie Co. v. T. & P. Ry. Co.*, 18 I. C. C., 129, was cited. In that case we found a rate of 25 cents prescribed on oak lumber and ties in carloads from the same territory to El Paso as a component of a through rate on traffic for Arizona was not unreasonable for a distance of 820 miles. It is contended that when compared with the aggregate of the local rates of 25 cents to El Paso and 10 cents beyond, the latter rate prescribed by us in *Bascom-Porter Co. v. A., T. & S. F. Ry. Co.*, *supra*, the 34-cent rate is not unreasonable for the through haul.

In *Corporation Commission of New Mexico v. Ry. Co.*, 34 I. C. C., 292, we prescribed to destinations in the Pecos Valley in New Mexico rates of 30 cents from points on the Santa Fe in eastern Texas and Louisiana; 33 cents from points on connecting lines in Texas, and 35 cents from points on connecting lines in Louisiana. From Beaumont, Tex., to Roswell, N. Mex., representative points of origin and destination, respectively, the short-line distance is 853 miles, and the ton-mile earnings under the 30-cent rate 7.03 mills. For petitioners it was shown that the average distance from points on connecting lines in Texas to Roswell is 950 miles, and the ton-mile yield under the 33-cent rate, 6.95 mills; and that the distance from Lake Charles to Roswell is 917 miles and the ton-mile yield under the 35-cent rate, 7.63 mills. It will be noted that the former rate of 34 cents and the present rate of 28 cents to Las Cruces from Texas and Louisiana points applied and apply both from local stations on the Santa Fe and from points on connecting lines.

From a careful review of the record as now made we are of opinion and find that a rate of 34 cents per 100 pounds on lumber in carloads from the points of origin in question to Las Cruces is not unreasonable, unjustly discriminatory, or unduly prejudicial.

An order dismissing the complaint will be entered.

McCHORD, *Commissioner*, dissents.

No. 3544.  
BASCOM-PORTER COMPANY  
v.  
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY.

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*Submitted October 11, 1916. Decided December 20, 1917.*

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Upon rehearing, original finding that complainant is entitled to reparation on carload shipments of lumber from Louisiana and Texas producing points to Las Cruces, N. Mex., adhered to.

*Rufus B. Daniel* for complainant.

*T. J. Norton, Robert Dunlap, and F. E. Andrews* for defendant.

REPORT OF THE COMMISSION ON REHEARING.

BY THE COMMISSION :

The question of reparation in this case is now before us for the third time. Our original report is in 24 I. C. C., 297. In that case we found that reparation was due. In our report on rehearing, entered June 15, 1915, we adhered to that finding and entered an order awarding reparation to complainant in the sum of \$996.45, with interest. In November, 1915, the case was again reopened on defendant's petition for further hearing on the question of reparation, and our order awarding reparation was set aside. Rates are stated in cents per 100 pounds.

At the time these shipments moved, there was no joint rate on lumber originating in Texas and Louisiana to Las Cruces, N. Mex., via El Paso, Tex. There was a proportional rate of 18 cents to El Paso, to which was added defendant's local rate of 16 cents from El Paso to Las Cruces. This local rate we found to be unreasonable to the extent that it exceeded 10 cents.

At the same time the local rate from the same points to El Paso was 25 cents. While the original complaint was pending, the 18-cent proportional rate to El Paso was canceled and a joint through rate of 34 cents to Las Cruces via El Paso was established. This joint through rate was attacked as unreasonable in *Bascom-French Co. v. A., T. & S. F. Ry. Co.*, 34 I. C. C., 388. We there found that the rate was unreasonable to the extent that it exceeded 28 cents and prescribed 28 cents as a reasonable maximum rate for the future.

In *Deming Lumber Co. v. S. P. Co.*, 24 I. C. C., 598, we prescribed 29 cents as a maximum reasonable rate for the statutory period from these points of origin to Deming, N. Mex. Upon the expiration of that order, the Deming rate was increased to 34 cents. On rehearing of *Bascom-French Co. v. A. T. & S. F. Ry. Co.*, ante, page 62, we have found that a joint through rate of 34 cents to Las Cruces is not unreasonable.

This complainant made shipments to Las Cruces via El Paso and paid charges thereon at a combination rate, the factor of which, applying from El Paso to Las Cruces, exceeded by 6 cents per 100 pounds the reasonable local rate as fixed by us. The combination through rate exceeded by 6 cents per 100 pounds what in *Bascom-French Co. v. A., T. & S. F. Ry. Co.*, supra, we found to be a reasonable maximum joint through rate. Upon an amplified record and in view of changed conditions, we have now found that a joint through rate of 34 cents is not unreasonably high, but that does not alter the fact that upon the shipments here in question this complainant paid charges in excess of what we found to be reasonable charges; and it is, therefore, entitled to reparation.

Upon the whole record we find that complainant made the shipments; that it paid and bore charges thereon at the rate found unreasonable; that it has been damaged to the extent of the difference between the charges collected and those that would have accrued at the rate found reasonable; and that it is entitled to reparation in the sum of \$996.45, with interest. An order will be entered accordingly.

HALL, *Chairman*, dissenting:

I am unable to find that complainant has been injured, or that it is entitled to an award of damages in any amount.

By its complaint filed in 1910 it attacked the carload rate of 16 cents per 100 pounds on lumber from El Paso, Tex., to Las Cruces, N. Mex., as unreasonable to the extent that it exceeded 10 cents for the haul of 44 miles, and claimed reparation on 32 cars which it had received at Las Cruces since October 6, 1908. These shipments originated at mills in eastern Texas and western Louisiana, were sold at a delivered price per 1,000 feet, and moved via El Paso at a combination rate of 34 cents, composed of an 18-cent proportional to El Paso and the 16-cent local, under attack, thence to Las Cruces. No lumber originated at El Paso, and a dealer there shipping to Las Cruces in competition with complainant would have had to overcome the disadvantage of a 25-cent local rate from the originating mills to El Paso. This 25-cent rate we had held not unreasonable in

*Continental Lumber & Tie Co. v. T. & P. Ry. Co.*, 18 I. C. C., 129, on shipments of ties from Texarkana, Tex., via El Paso to Douglas, Ariz., and reparation for excess over 18 cents was there denied. The 34-cent rate had been in effect for a number of years and had also been made effective via Sweetwater, Tex., apparently at complainant's instance. The greater part of the shipments to complainant moved by the latter route. The 16-cent local rate was not made with respect to the local traffic from El Paso to Las Cruces, of which there was little or none, but to hold the through rate from origin at 34 cents. On May 7, 1912, we held the 16-cent rate unreasonable to the extent that it exceeded 10 cents. Meanwhile on March 9, 1911, the proportional of 18 cents to El Paso was canceled, except on shipments to the republic of Mexico, and a joint through rate of 34 cents to Las Cruces established via El Paso. On complaint filed May 7, 1913, we reduced this rate to 28 cents, effective August 15, 1915, and denied reparation. In our accompanying report in *Bascom-French Co. v. A., T. & S. F. Ry. Co.*, 48 I. C. C., 62, we have found the 34-cent rate not unreasonable and dismissed the complaint.

It thus appears that for years prior to the original complaint in 1910, during its pendency, and after our first decision down to August, 1915, the rate of 34 cents was paid on every shipment of lumber to Las Cruces from the originating mills by whatever route moving. We find the same rate not unreasonable to-day. Out of all these shipments some 32, received during a period of less than two years, are accorded reparation to the basis of 28 cents, which had never been effective, and which was not made effective until five years thereafter. It further appears that the mills in selling on a delivered price figured on the 34-cent rate as applicable, and that, while complainant paid that rate, it deducted it from the invoice, so that the mills bore the freight charges. They subsequently assigned to complainant whatever claim for reparation they respectively had, and it is only through these assignments, made after our first decision, that complainant has any color of claim to redress. There is no showing that the mills were injured, and they have not complained or sought reparation.

As a local rate applicable to local movement from El Paso to Las Cruces, the 16-cent rate was properly condemned, but it was not applied on local movements in the instances in which reparation is sought, and the combination rate of 34 cents charged was less than would have been the combination of 25 cents to El Paso, which we sanctioned in April, 1910, and 10 cents from El Paso to Las Cruces, which we required by our order herein of May 7, 1912, an aggregate of 35 cents.

It is true that the complaint attacked only the factor from El Paso, but the issues were made plain at the hearing, as appears from the following colloquy:

Examiner MACKLEY. In other words, the through rate from the milling point to Las Cruces is unreasonable because the local rate from El Paso to Las Cruces, forming a part of that through rate, is unreasonable. Is that your contention?

Mr. DANIEL. That is our contention, as far as it goes, but as Mr. Frenger states, there have been local shipments moving from El Paso to Las Cruces.

Mr. HOUGHTON. Are they included in this complaint?

Mr. DANIEL. As to that I could not say.

No local shipments were included in the complaint for reparation. Our former order awarding reparation should be rescinded and reparation denied.

McCHORD, *Commissioner*, dissents.

48 I. C. C.

No. 9053.<sup>1</sup>

OHIO CUT STONE COMPANY

v.

NEW YORK CENTRAL RAILROAD COMPANY ET AL.

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*Submitted January 15, 1917. Decided December 28, 1917.*

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1. Through rates on interstate traffic from and to complainants' plants near Amherst, Ohio, composed of the Amherst rates plus all or a portion of the Lorain & Southern Railroad's rates between complainants' plants and Lake Shore Junction, Ohio, found not to have been or to be unreasonable *per se*.
2. The refusal of the New York Central Railroad Company, on and after May 1, 1916, to make an allowance to the Lorain & Southern of more than \$2.07 per car not shown to have been or to be unduly prejudicial to complainants.
3. The undue prejudice to the Ohio Quarries Company found in *Lorain & Southern R. R. Co. Case*, 37 I. C. C., 497, to have existed on and after April 1, 1914, not shown to have damaged complainant, and reparation denied.

*Henderson, Quail, Sidall & Morgan* and *C. D. Chamberlin* for complainants and Lorain & Southern Railroad Company.

*S. H. West* for New York Central Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant Ohio Quarries Company, hereinafter called the quarries company, owns and operates a quarry industry at South Amherst, Lorain county, Ohio, adjoining the extensive quarry property of the Cleveland Stone Company, hereinafter called the stone company. Complainant Ohio Cut Stone Company, which is engaged in cutting stone, is located on the property of and is closely related to the quarries company in that stockholders of the latter are also stockholders of the former. Both are located on the rails of the Lorain & Southern Railroad, one of the industrially owned lines concerned in the original proceeding in the *Second Industrial Railways Case*, 34 I. C. C., 596. The quarries company owns all the stock, except qualifying shares, of the Lorain & Southern, the main line of which extends from the property of the quarries company to a point called Lake Shore Junction, Ohio, a distance of 1.25 miles, where it connects with the quarry branch of the New

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<sup>1</sup> This report also embraces No. 9053 (Sub-No. 1), Ohio Quarries Company v. Same.

York Central Railroad, formerly the Lake Shore & Michigan Southern Railway, hereinafter called the Lake Shore.

Complainants' principal competitor is the stone company, which is located on the quarry branch of the Lake Shore, extending from a point about 1 mile west of Amherst on its main line to the property of the stone company, a distance of about 3 miles. In our supplemental report in the *Lorain & Southern R. R. Co. Case*, 37 I. C. C., 497, the origin and history of the Lorain & Southern and the quarries company are fully set forth and need not be repeated here. It will suffice to say that when the Lorain & Southern first connected with the Lake Shore the latter road published a charge of \$1 per car for all movements over its quarry branch, and at the same time the Lorain & Southern assessed a charge of \$1 per car for service which it performed in switching cars between the plants of the complainants and Lake Shore Junction. Complainants therefore had to pay \$2 per car in addition to the Amherst rate, whereas the stone company had to pay only \$1 per car. At that time the Lake Shore owned and maintained all of the switch tracks on the property of the stone company over which the stone company operated with its own motive power, the Lake Shore receiving no compensation for the use of its tracks. About 1910 the Lake Shore discontinued the charge of \$1 per car over its quarry branch and thereafter made an allowance of \$1 per car to the Lorain & Southern. Following *Industrial Railways Case*, 29 I. C. C., 212, the Lake Shore, by tariff effective April 1, 1914, canceled the allowance theretofore made to the Lorain & Southern. Effective May 18, 1914, the Lorain & Southern increased its local rate to \$2.50 per car, which is still in effect. The Lorain & Southern by formal complaint protested the cancellation of the allowance, alleging that it subjected shippers on its line to undue and unreasonable prejudice and disadvantage. That complaint was disposed of in the *Lorain & Southern R. R. Co. Case, supra*, in which we held that under its then existing rates and practices the Lake Shore was giving to the stone company and its traffic an undue and unreasonable preference and advantage and subjecting the quarry company and its traffic to an undue and unreasonable prejudice and disadvantage. The Lake Shore was required to remove this discrimination by making reasonable allowances or divisions to the Lorain & Southern, or by such other methods as it deemed proper. On May 29, 1916, the New York Central entered into an agreement with the stone company which provided that, beginning May 1, 1916, the stone company should maintain all the tracks of the New York Central upon the stone company's property, making all repairs and replacements at its own expense and paying all taxes assessed thereon; and that, beginning July 1, 1916, the stone com-

pany should pay to the New York Central 5 per cent interest annually on \$27,932, the estimated value of the tracks. This value was fixed by the engineering department of the New York Central, and there is no ground to believe that it is inaccurate. It was further provided that the stone company should keep accurate accounts of the cost of handling of cars for interchange switching with the railroad company, and that if any allowance received by the stone company exceeded the cost, together with the taxes, maintenance, and interest, the excess should be refunded to the railroad company, which should have the right to verify all figures by an examination of the stone company's books. For the further purpose of removing the discrimination the New York Central, by tariff effective May 1, 1916, published an allowance of \$2.07 per car to the Lorain & Southern and to the stone company. The result of this arrangement is that the stone company, in effect, receives the Amherst rates, provided the items of expense enumerated do not exceed the amount of the allowance. There is nothing of record to indicate how this cost per car compares with the \$2.07 allowance.

As a result of a proceeding before the Public Utilities Commission of Ohio in 1914, upon complaint of the Lorain & Southern against the Lake Shore, the former was found to be a common carrier, and the latter was directed and required to pay to it a reasonable and just compensation for the service it performed in the transportation of freight between points on its line and points on the Lake Shore in the state of Ohio. In compliance with that order the New York Central, by tariff effective July 26, 1915, published an allowance to the Lorain & Southern of \$2.50 per car on intrastate shipments. On May 1, 1916, this allowance was reduced to \$2.07 per car, following which there was a further proceeding before the Public Utilities Commission of Ohio, in September, 1916, in which this reduction was protested, and reparation asked for the difference between the two amounts on all intrastate shipments moving after the reduction. The present status of that proceeding is not shown.

In the instant proceeding, by formal complaints filed July 13, 1916, complainants allege that the charges assessed on their inbound and outbound interstate shipments since April 1, 1914, were and are unreasonable, unjustly discriminatory, and unduly prejudicial to the extent that they exceeded and exceed charges based on the Amherst rates, and that the present allowance of \$2.07 per car to the Lorain & Southern is inadequate and should be increased to \$2.50 per car. Reparation is asked upon certain shipments that moved over the Lorain & Southern between April 1 and May 17, 1914, inclusive, at \$1 per car; between May 18, 1914, and April 30, 1916, inclusive, at \$2.50 per car; and on and after May 1, 1916, at 43 cents per car, the

difference between the \$2.07 allowance and that of \$2.50 which is claimed by complainants. Although the charges which it is sought to have refunded were paid by the complainants to the Lorain & Southern, no relief is sought against that line. The claim as to shipments which moved more than two years prior to July 13, 1916, is barred by the statute of limitation.

The New York Central contends that the present allowance of \$2.07 per car to the Lorain & Southern, made to remove the discrimination previously found to exist, covers the cost of the service performed by that road and that, therefore, the complainants are, in effect, receiving the Amherst rate. On the other hand, the Lorain & Southern insists that neither the allowance of \$2.07 per car nor its local charge of \$2.50 covers the actual cost.

The Lorain & Southern arrives at the cost of its service by dividing the total operating expense for certain periods by the total number of car movements, plant and interplant, as well as those interchanged with the Lake Shore. By this method it shows as a cost from January to July, 1916, \$3.23 per car and for the calendar year 1915 a cost of \$2.47 per car. These figures are protested by the New York Central as including items which should not be shown. Excluding these protested items, the New York Central arrives at a cost of \$2.07 per car for the calendar year 1915. It is stated for the Lorain & Southern that according to the New York Central's computations, the cost per car from January to July, 1916, would be \$2.76. The total operating expenses submitted in evidence, however, show that neither the Lorain & Southern nor the New York Central's computations are based upon the consideration laid down in the *Chicago, West Pullman & Southern R. R. Co. Case*, 37 I. C. C., 408, 415, for the purpose of arriving at the amount which the trunk lines may allow common-carrier industrial lines for switching. In that case we said:

A common-carrier industrial line should be compensated for all costs reasonably apportionable to the service performed. \* \* \* In arriving at the amount which trunk lines may allow common-carrier industrial lines for switching the following considerations should prevail: In so far as the industrial line serves the plant in interplant switching and other purely plant service the cost of such service and the investment in facilities used exclusively to perform that service must be excluded in calculating the cost of the switching service to and from the trunk lines. The investment in facilities used both for plant service and interchange switching can only be included in the proportions that they are used in interchange switching. Interior plant switching or any other service differing radically in nature from the general work of switching cars between industries and connections should be segregated as to investment and operating costs of the industrial line so far as this may be found feasible. The engine hour will usually be found a safer guide than cars handled for making this general separation. For interior plant switching

the industries benefited should be charged with the allocated capital and operating costs. The remaining operating and capital costs measure the maximums which may be received net for other switching, either in the form of switching charges or allowances \* \* \*. From its entire business the industrial line should not earn more than a fair return on the property devoted to public use, less reserve for depreciation, and including material and supplies in the investment.

These suggestions are pertinent in connection with a determination of the cost of interchange switching by the Lorain & Southern.

The questions to be determined here are (1) whether or not the rates assailed are reasonable *per se*; (2) whether or not the undue prejudice which was found to exist against the quarries company in the former case has been removed; and (3) whether or not the complainants are entitled to reparation.

As above stated, complainants seek no relief against the Lorain & Southern. It is contended that the local rates of that road from and to Lake Shore Junction are not only reasonable but less than the actual cost of operation. Complainants do not attack the Amherst rates. Their reasonableness is apparently conceded and they are sought to be made applicable from complainants' plants. The real cause of complaint is the alleged inadequacy of the absorption of the Lorain & Southern's charges by the New York Central. In *Manufacturers Railway Co. v. St. L., I. M. & S. Ry. Co.*, 28 I. C. C. 93, in speaking of absorptions by trunk lines of the charges of industrial roads, we said:

In the absence of an undue discrimination with respect to such absorptions the Commission could make no lawful order that they be made.

Upon this record we find that, during the period here in question, the addition to the Amherst rates of all or a portion of the rates of the Lorain & Southern between complainants' plants and Lake Shore Junction did not result in through rates which were unreasonable *per se*.

The record shows no substantial dissimilarity in the conditions at the industries of complainants and the stone company. The latter maintains the tracks on its property over which it operates with its own motive power and crews, and in addition performs all interchange switching between the points of loading and unloading at its quarry and the point of interchange with the New York Central. The Lorain & Southern performs a similar service for complainants.

The New York Central has elected to remove the undue prejudice found to exist in the *Lorain & Southern R. R. Co. Case, supra*, by making allowances. If the present arrangement between the New York Central and the stone company has the effect of giving the

latter the Amherst rates then unless the Amherst rates are also extended to complainants by the absorption by the New York Central of the actual cost of interchange switching by the Lorain & Southern complainants are unduly prejudiced and the stone company unduly preferred. In neither case is there any justification for a greater allowance than the approximate cost of the service if performed by the New York Central. In the absence of figures based on the suggestions contained in the *Chicago, West Pullman & Southern R. R. Co. Case, supra*, showing the costs of interchange switching by the stone company and the Lorain & Southern, we are unable to determine whether or not the previously existing undue prejudice has been removed. We therefore find that the refusal of the New York Central, on and after May 1, 1916, to make an allowance to the Lorain & Southern of more than \$2.07 per car is not shown to have been or to be unduly prejudicial to complainants. This record does not contain proof of damage necessary to support an award of reparation under a finding of undue prejudice and none will be awarded.

An order will be entered dismissing the complaint.

48 I. C. C.

No. 8616.  
BROWN STAVE COMPANY  
v.  
ST. LOUIS & SAN FRANCISCO RAILROAD COMPANY  
ET AL.

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*Submitted December 8, 1916. Decided January 14, 1918.*

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Rate on forest products, in carloads, from Canalou, Mo., to Thebes, Ill., destined beyond, found to have been and to be unreasonable. Reparation denied.

*George B. Webster* for complainant.

*Thomas Bond* for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of slack barrel staves at Canalou, Mo. By complaint, filed January 12, 1916, it alleges that the rate of 7.5 cents per 100 pounds on forest products, including slack barrel cooperage staves, in carloads, from Canalou to Thebes, Ill., was and is unreasonable and unjustly discriminatory. Reparation is asked on numerous shipments moving beyond Thebes to points in official classification territory within the statutory period. Rates are stated in cents per 100 pounds.

Canalou is located on the Leachville division of the St. Louis & San Francisco Railroad, hereinafter called defendant, 7 miles south of and beyond Morehouse, Mo. The shipments moved over the Frisco to Chaffee, Mo., thence over the Chicago & Eastern Illinois Railroad to Thebes, a distance of 47 miles. The 7.5-cent rate assailed is the local rate from and to those points and also the proportional rate used in constructing rates to destinations beyond Thebes, particularly in central freight association, trunk line, and western trunk line territories. There appears to be little local consumption of lumber at Thebes.

In *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.*, 36 I. C. C., 262, 46 I. C. C., 480, we held that the 7-cent proportional rate on lumber and lumber products from Morehouse to Thebes, when destined beyond, was unreasonable to the extent that it exceeded 5.5 cents. For a long time prior to the reduction of the rate from Morehouse the rate from Canalou was one-half cent higher than the Morehouse rate, and complainant contends that the

same relationship should now be maintained. For defendant it is admitted that if the 5.5-cent rate from Morehouse is reasonable, the spread of 2 cents at Canalou is too great.

The transportation conditions surrounding the hauls from Morehouse and Canalou are practically identical, and as they were fully set forth in the *Himmelberger-Harrison Lumber Co. Case, supra*, a restatement of them or citation of the various rate comparisons introduced in this case is unnecessary. The 5.5-cent rate from Morehouse to Thebes yields a ton-mile revenue of 26.8 mills, and the 7.5-cent rate from Canalou 31.9 mills. The 6-cent rate sought from Canalou would yield 25.5 mills per ton-mile.

Following the case cited and on the record we find that the rate of 7.5 cents per 100 pounds applicable from Canalou to Thebes on slack barrel cooperage staves and forest products grouped therewith, in carloads, when destined beyond, is, and for the future will be, unreasonable to the extent that it exceeds or may exceed 6 cents per 100 pounds. In view of the failure to attack the through rates assessed on the shipments reparation is denied. *Cairo Board of Trade v. C., C., C & St. L. Ry. Co.*, 46 I. C. C., 343.

An appropriate order will be entered.

48 I. C. C.

No. 9374.  
DAVID BERG DISTILLING COMPANY  
v.  
PENNSYLVANIA RAILROAD COMPANY.

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*Submitted May 4, 1917. Decided January 14, 1918.*

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Rate on imported blackstrap molasses, in carloads, from defendant's wharf to complainant's siding, both in Philadelphia, Pa., not shown to have been or to be unreasonable. Complaint dismissed.

*Allen S. Olmsted, 2d, and William A. Glasgow, jr., for complainant.*

*Henry Wolf Bickl  for defendant.*

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainant is a corporation engaged in distilling alcohol at Philadelphia, Pa. By complaint, filed December 9, 1916, it alleges that the rate charged for transporting, between April 29 and November 16, 1915, 286 carloads of imported blackstrap molasses from defendant's wharf on the Delaware River, and 16 carloads from Heyl Brothers' siding, to complainant's private siding, all in the city of Philadelphia, was and is unreasonable to the extent that it exceeded and exceeds \$2 per car. Reparation is asked. Rates are stated in cents per net ton.

With the exception of the contents of the 16 cars loaded at Heyl Brothers' siding, at Christian street, the molasses was imported from Cuba and Porto Rico, consigned to complainant, and delivered in tank steamers at defendant's pier No. 57 at Reed street. The origin of the contents of the above-mentioned 16 cars not appearing, our jurisdiction respecting the rail movement of these shipments is not established.

The molasses loaded at defendant's pier was pumped direct from the steamer at complainant's expense into tank cars which, with the exception of four cars owned by defendant, were either owned or leased by complainant. The transportation from the pier to complainant's siding at Delaware avenue and Tasker street covered a distance of 2,300 feet. Charges were collected on the basis of a rate of 53 cents established July 1, 1915.

In support of the complaint it is shown that for the switching haul of less than one-half mile defendant's compensation averaged nearly

\$26 for an average load of 98,000 pounds; that for distances generally exceeding that in this case defendant maintained per car switching charges in Philadelphia, not filed with this Commission, ranging from \$2 to \$6, and including charges of \$5 and \$6 on carloads of sugar and sirup hauled between refineries for distances from 1 to 3 miles, partly over the rails used in the movement of complainant's shipments; that, without expense to defendant, the molasses was loaded and unloaded so expeditiously that some of the cars made two loaded movements the same day; and that on the average each car was used twice in unloading the same vessel, and some as many as four times. Some stress is laid upon a switching charge of \$2 per car, maintained by defendant, for the transfer of carload freight from its piers to storage yards and return.

For defendant it is urged that the transportation here under consideration is not comparable to ordinary switching, inasmuch as it is not incidental to a line haul, but is complete in itself, entitling the carrier to something more than a mere switching charge; that for intracity transportation, such as that here concerned, it is impossible to base rates on distance; that the rate of 53 cents applies within a restricted district, in which complainant's industry happens to be situated less distant from the pier than other industries; that the service rendered in this movement included, in addition to the transportation, the assembling of the cars, wharfage at defendant's pier, and weighing the cars, heavy and light; and that the cost of handling traffic in Philadelphia, by reason of the large investment and congested conditions, is very heavy. It is explained that the \$2 switching charge, particularly mentioned above, applies in connection with line-haul rates which include pier delivery, and is assessed when, through failure to provide a vessel or inability of the vessel to receive the lading, it becomes necessary to remove cars to a storage yard to avoid congestion at the pier. Our attention is directed also to a great number of commodities for a similar movement of which from defendant's piers in Philadelphia, inclusive of wharfage, rates ranging around 53 cents and higher apply.

We are of opinion and find that the rate assailed is not shown to have been or to be unreasonable, and an order dismissing the complaint will be entered.

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**FIFTEENTH SECTION APPLICATION No. 324.<sup>1</sup>**  
**TRANSCONTINENTAL COMMODITY RATES.**

*Submitted December 20, 1917. Decided January 21, 1918.*

1. Authority to file increased carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto granted.
2. Authority to cancel all less-than-carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto denied.
3. Authority to file increased less-than-carload commodity rates from eastern defined territories to Pacific coast points not higher than the present rates on the same items to points intermediate to the Pacific coast granted.
4. Authority sought by the Southern Pacific Company via water-and-rail routes through Galveston to file proposed increased rates from its New York piers on items as to which it concurs in higher rates via all-rail routes to Pacific coast points denied.
5. Authority to file increased export commodity rates from eastern defined territories to Pacific coast ports applicable on traffic destined to points in Japan, Australia, New Zealand, Fiji Islands, the Philippine Islands, and Asiatic countries granted.
6. Authority to file increased import commodity rates from Pacific coast ports to points in eastern defined territories applicable on traffic from points in Japan, New Zealand, Australia, Fiji Islands, the Philippine Islands, and Asiatic countries granted.
7. Authority sought by rail-and-water lines through Galveston to increase rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports in California to the Atlantic seaboard to the level of the all-rail rates on the same commodities granted.
8. Authority sought under the fourth section by the all-rail lines to meet via their routes the rates proposed by the Southern Pacific Company from and to New York via its route through Galveston to and from Pacific coast ports denied.

*T. J. Norton* for Atchison, Topeka & Santa Fe Railway Company; *H. A. Scandrett* for Union Pacific Railroad Company; *H. C. Burnett* for Lehigh Valley Railroad Company; *Charles Donnelly* for Northern Pacific Railway Company; and *F. H. Wood* for Southern Pacific Company.

*J. B. Campbell* for Spokane Merchants' Association; *James C. Lincoln* for Merchants Association of New York; *J. H. Lothrop* and *W. C. McCulloch* for Portland Traffic & Transportation Association; *P. W. Coyle* for St. Louis Chamber of Commerce; *R. D. Sangster* for Chamber of Commerce, Kansas City, Mo.; *H. C. Bar-*

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<sup>1</sup> This report also includes the disposition of Fifteenth Section Applications Nos. 1399, 1077, 1083, 1084, and 1822, and Fourth Section Applications Nos. 11149, 11150, 11178, 11186, 11187, 11196, and 11197.

*low* for Chicago Association of Commerce; *S. J. Wettrick* for Seattle Chamber of Commerce; *Seth Mann* for San Francisco Chamber of Commerce; *A. T. Helpling* for South Dakota Chamber of Commerce; *Jay W. McCune* for Traffic Bureau of Tacoma Commercial Club; *Edward M. Cousin* for Willamette Valley and Southern Oregon Shippers Association; *A. L. Freehover* and *Leonard Way* for Public Utilities Commission of Idaho; *George B. Groff* for Commercial Club of Boise, Idaho; and *W. S. McCarty*, *S. H. Love*, and *H. W. Prickett* for Traffic Bureau of Utah.

*Frank Lyon* for Luckenbach Steamship Company; *Forest Bramble* for Phelps Construction Company; *C. W. Belsterling* for American Bridge Company and others; *W. J. Price* for J. B. Williams Company; *Walter Engels* for Borden's Condensed Milk Company; *J. L. Roberts* for the Barrett Company; *E. R. Bockstedt* for Columbian Rope Company; *C. L. Hilleary* for F. W. Woolworth Company; and *C. S. Belsterling* and *J. F. Townsend* for National Tube Company.

*Claude H. Reigart* for Bethlehem Steel Company; *N. L. Moon* for Alan Wood Iron & Steel Company; *H. C. Crawford* for the Cambria Steel Company; *R. A. Van Kirk* for the Varnish Manufacturers Association and Paint Manufacturers Association; *J. W. Bomgardner* for John A. Roebling's Sons Company; *Wilmer M. Wood* for United States Cast Iron Pipe & Foundry Company and others; *Herbert Thompson* for Union Carbide Company and others; *A. L. Griffith* for American Can Company; *R. E. L. Bunch* for American Brake Shoe & Foundry Company; *Michael T. Curran* for American Stove Company; and *J. L. Power* for Simmons Hardware Company.

*E. A. Leveille* for Charles Emmerich & Company; *F. R. Levins* for Russ-Parker Company; *John J. Sinnott* for F. F. Dalley Company; *Bruce Terbush* for Stone-Ordean-Wells Company; *Charles F. Robb* for P. R. Mitchell Company; *R. L. Hearon* for Colorado Fuel & Iron Company; *C. G. Hylander* for William Wrigley, Jr., Company; *Martin Van Persyn* for Wholesale Grocers Exchange of Chicago and Sprague, Warner & Company; *Ed E. Rents* for Globe-Wernicke Company and others; *E. K. Prichett* for Macey Company and others; and *A. T. Cobb* for Yawman & Erbe Manufacturing Company and others.

*J. P. Curran* for American Bottle Company; *C. D. Dooley* for Peet Brothers Manufacturing Company; *L. A. Clark* for Ball Brothers Manufacturing Company; *William T. Days* for Malinckrodt Commercial Works; *Bishop & Bahler* for Union Iron Works; *Charles Clifford* for Wholesale Plumbing Jobbers of San Francisco and others; *R. M. Fullerton* for Western Cedar Pole Preservers; *E. S. De Pass* for Carnation Milk Products Company;

*C. W. Dejournette* for American Cream Tartar Company; *J. S. Jenks* for Fresno Cooperage Company; and *Geo. W. Webster* for Associated Cooperage Industries of America.

#### REPORT OF THE COMMISSION.

##### BY THE COMMISSION:

In *Transcontinental Rates*, 46 I. C. C., 236, we found that existing water competition between the east and west coasts of the United States did not justify the maintenance by the rail carriers or water-and-rail carriers of lower rates on commodities from eastern defined territories to Pacific coast points than were contemporaneously maintained on like traffic to intermediate points.

We also found that the maintenance of lower rates via rail-and-water routes through Galveston on barley, beans, canned goods, asphaltum, dried fruits, and wine from California-Pacific coast ports to the Atlantic seaboard than on like traffic from or to intermediate points was not justified. Orders were entered requiring the carriers on or before October 15, 1917, to realign the commodity rates from eastern defined territories to Pacific coast and intermediate points, and the rates via rail-and-water routes through Galveston on the commodities above named from California ports to the Atlantic seaboard to accord with the long-and-short-haul rule of the fourth section of the act.

By amendment to section 15 of the act approved August 9, 1917, it is provided that until January 1, 1920, it shall be unlawful to file increased interstate rates without having first secured from the Commission approval thereof.

Under this requirement, the carriers filed on September 21, 1917, Fifteenth Section Application No. 324, and on October 22, 1917, Fifteenth Section Application No. 1399 requesting authority to file certain increased commodity rates from eastern defined territories to the Pacific coast, and, in some instances, to intermediate points. On November 16, 1917, Fifteenth Section Application No. 1822 was filed asking authority to file increased rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to the Atlantic seaboard via rail-and-water routes through Galveston. By Fifteenth Section Applications Nos. 1077 and 1083, filed October 8, 1917, authority is sought to file increased export rates from various points in the United States to Pacific coast ports on traffic destined to points in Australia, New Zealand, Japan, China, the Philippine and Fiji Islands, and in specific instances to Central and South American and Mexican points. By Fifteenth Section Application No. 1084, filed October 8, 1917, authority is sought to file increased rates from Pacific coast ports to points in the United States and

Canada applicable on traffic originating in Asia, Australia, and in specific instances in Central and South America, Mexico, and the Hawaiian Islands.

Hearings respecting the propriety of the proposed increases have been held at New York, N. Y., Chicago, Ill., Portland, Oreg., and Washington, D. C.

DOMESTIC RATES.

The domestic rates apply upon by far the greater amount of traffic and will be discussed first. Rates to California terminals and intermediate points are published in Trans-Continental Freight Bureau tariff 1-P, R. H. Countiss, agent's, I. C. C. No. 1036, hereinafter referred to as tariff 1-P, and the rates to the north coast terminals and intermediate points are published in Trans-Continental Freight Bureau tariff No. 4-N, R. H. Countiss, agent's, I. C. C. No. 1037, hereinafter referred to as tariff 4-N. Rates are stated in cents per 100 pounds. The rates on bottles from certain territories to points on or near the Pacific coast are under consideration in Investigation and Suspension Docket No. 963. The rates here proposed on this commodity are shown in item 394 of tariff 1-P and 485-A of tariff 4-N. Nothing in this report or order must be construed as affecting the disposition we may subsequently make as to these rates in the suspension case above named. Commodity rates from eastern defined territories to Pacific coast and intermediate points are divided into three groups, designated as schedules A, B, and C, described in *Transcontinental Rates, supra*, page 249. The rates to the Pacific coast ports proposed on items included in schedule C are in all instances nearly the same as the rates now applicable to the highest rated intermediate points such as Spokane, Wash., Reno, Nev., and Phoenix, Ariz. The following-named items are representative of the articles, and the rates shown are representative of the present and proposed rates on items in tariff 1-P:

Item No.	Caption.	Groups.								
		A	B	C	D	E	F	G	H	I
1572	Wrought-iron pipe:									
	Present to terminals.....	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
	Present to intermediates...	1.10	1.00	1.00	.90	.90	.75	.75	.75	.75
	Proposed to terminals.....	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
	Proposed to intermediates..	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
1636	Paints:									
	Present to terminals.....	.85	.85	.85	.85	.85	.85	.85	.85	.85
	Present to intermediates...	1.10	1.00	1.00	.90	.90	.85	.85	.85	.85
	Proposed to terminals.....	1.10	1.00	.95	.90	.90	.85	.85	.85	.85
	Proposed to intermediates..	1.10	1.00	.95	.90	.90	.85	.85	.85	.85

In those instances in which the present rates from group F to intermediate points are 75 cents, the proposed rates from points in  
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group F to the terminals are 75 cents, and the proposed rates to both intermediate points and to the terminals from points in the more easterly groups are constructed by adding to the 75-cent rate from group F 10, 15, 20, 25, and 35 cents from points in groups E, D, C, B, and A, respectively. This is illustrated by the rate on wrought-iron pipe shown above. In those instances in which the present rate on any commodity from points in group F to intermediate territory is higher than 75 cents the present and the proposed rates from points in group F to the terminals are the same as the present and proposed rates to intermediate points, and the rates from points in territory east of group F are constructed by adding 5, 10, 15, and 25 cents to the rates from group F to make the rates from groups D, C, B, and A, respectively. This is illustrated by the rate on paint shown above.

The present rates on the schedule B commodities from group F, or points west thereof, are not higher to intermediate than to terminal points. The rates from points east of group F to intermediate territory are constructed by adding to the rates from group F 7 per cent from points in groups E and D, 15 per cent from groups C and B, and 25 per cent from group A. The proposed rates to the terminals and to intermediate territory are generally constructed by using the present rate from group F as a basis and adding thereto 10, 15, 20, 25, and 35 cents from points in groups E, D, C, B, and A, respectively. This is illustrated by the rates on the following items in tariff 1-P:

Item No.	Caption.	Groups.								
		A	B	C	D	E	F	G	H	I
304	Agricultural implements:									
	Present to terminals.....	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25
	Present to intermediates...	1.56	1.44	1.44	1.34	1.34	1.25	1.25	1.25	1.25
	Proposed to terminals.....	1.60	1.50	1.45	1.40	1.35	1.25	1.25	1.25	1.25
	Proposed to intermediates..	1.60	1.50	1.45	1.40	1.35	1.25	1.25	1.25	1.25
338	Ammunition:									
	Present to terminals.....	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
	Present to intermediates...	1.25	1.15	1.15	1.07	1.07	1.00	1.00	1.00	1.00
	Proposed to terminals.....	1.35	1.25	1.20	1.15	1.10	1.00	1.00	1.00	1.00
	Proposed to intermediates..	1.35	1.25	1.20	1.15	1.10	1.00	1.00	1.00	1.00
718	Window glass:									
	Present to terminals.....	.90	.90	.90	.90	.90	.90	.90	.90	.90
	Present to intermediates...	1.13	1.04	1.04	.96	.96	.90	.90	.90	.90
	Proposed to terminals.....	1.25	1.15	1.10	1.05	1.00	.90	.90	.90	.90
	Proposed to intermediates..	1.25	1.15	1.10	1.05	1.00	.90	.90	.90	.90

In a few instances the rates proposed from group F to the coast are higher than the present rates to intermediate points by amounts varying from 5 to 15 cents. In instances where the rate is less than \$1, the maximum amount by which the proposed coast rate exceeds the rate to intermediate points is 5 cents. If between \$1 and \$2, the

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excess may be 10 cents; if more than \$2, 15 cents. Representative examples of such rates are the following items in tariff 1-P:

Item No.	Caption.	Groups.								
		A	B	C	D	E	F	G	H	I
918	Lumber, built-up wood, etc.:									
	Present to terminals.....	\$0.80	\$0.80	\$0.75	\$0.70	\$0.70	\$0.70	\$0.70	\$0.70	\$0.70
	Present to intermediates...	1.00	.92	.86	.75	.75	.70	.70	.70	.70
	Proposed to terminals.....	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
912	Liquors:									
	Present to terminals.....	1.05	.95	.90	.85	.80	.70	.70	.70	.70
	Present to intermediates...									
	Proposed to terminals.....									
976	Musical instruments:									
	Present to terminals.....	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
	Present to intermediates...	1.56	1.44	1.44	1.34	1.34	1.25	1.25	1.25	1.25
	Proposed to terminals.....	1.70	1.60	1.55	1.50	1.45	1.35	1.35	1.35	1.35
	Proposed to intermediates..	1.60	1.50	1.45	1.40	1.35	1.25	1.25	1.25	1.25
	Present to terminals.....	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
	Present to intermediates...	2.50	2.30	2.30	2.14	2.14	2.00	2.00	2.00	2.00
	Proposed to terminals.....	2.65	2.50	2.40	2.30	2.25	2.15	2.15	2.15	2.15
	Proposed to intermediates..	2.50	2.35	2.25	2.15	2.10	2.00	2.00	2.00	2.00

The present rates on the schedule A items now accord with the long-and-short-haul clause of the fourth section, and compliance with the terms of our order of June 30, 1917, did not necessitate any revision of these rates. No change is proposed in the rates on about 75 items of this character. The rates on about 40 items have been revised, of which representative examples are the following items in tariff 1-P:

Item No.	Caption.	Groups.								
		A	B	C	D	E	F	G	H	I
818	Threshers:									
	Present to terminals.....	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	\$1.40
	Present to intermediates...	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.40
	Proposed to terminals.....	1.85	1.72	1.66	1.60	1.56	1.43	1.32	1.32	1.22
836	Ammonia:									
	Present to terminals.....	1.75	1.62	1.56	1.50	1.46	1.33	1.22	1.22	1.12
	Present to intermediates...									
	Proposed to terminals.....									
1196	Silica:									
	Present to terminals.....				.60	.60	.60	.60	.60	.60
	Present to intermediates...				.60	.60	.60	.60	.60	.60
	Proposed to terminals.....				.70	.65	.60	.60	.60	.55
	Proposed to intermediates..				.70	.65	.60	.60	.60	.55
	Present to terminals.....				.50	.50	.50	.50	.50	.50
	Present to intermediates...				.50	.50	.50	.50	.50	.50
	Proposed to terminals.....				.55	.55	.50	.50	.50	.50
	Proposed to intermediates..				.55	.55	.50	.50	.50	.50

On the last two items no rates are published from points in groups A, B, and C. At the hearing some general objections were made to the increases proposed, but in the main, the objections were directed to particular rates in which shippers present had an active interest. These objections were developed in considerable detail as to the rates on the following items in tariff I-P: Item 342, argols; 710, plate glass; 712, rough rolled glass; 718, window glass; 930, machinery; 952, marble; 1000, creosote oil; 1218, staves and heading; 1264, tin

cans; 1322, turpentine; 1506, hemp sisal; 1514, structural steel; 1566-68, cast-iron pipe; 1572, wrought-iron pipe; 1740, tin plate; 1758, ; and item 1240 in tariff 4-N respecting chair stock. We show below the present and proposed rates to terminals and to intermediate points on each of these items:

~~185-2~~

Item No.	Caption.	From groups.								
		A	B	C	D	E	F	G	H	I
1514	Structural iron, min. wt. 60,000 and 80,000 pounds:									
	Present to coast.....	.75	.75	.75	.65	.65	.65	.65	.65	.50
	Present to intermediates...	1.10	1.00	1.00	.90	.90	.75	.75	.75	.75
	Proposed to coast.....	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
	Proposed to intermediates..	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
1568	Cast-iron pipe, min. wt. 60,000 pounds:									
	Present to coast.....	.75	.75	.75	.65	.65	.65	.65	.65	.65
	Present to intermediates...	1.10	1.00	1.00	.90	.90	.75	.75	.75	.75
	Proposed to coast.....	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
	Proposed to intermediates..	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
1574	Wrought-iron pipe, min. wt. 80,000 pounds:									
	Present to coast.....	.75	.75	.75	.65	.65	.65	.65	.65	.65
	Present to intermediates...	1.10	1.00	1.00	.90	.90	.75	.75	.75	.75
	Proposed to coast.....	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
	Proposed to intermediates..	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
1740	Tin plate, min. wt. 80,000 pounds:									
	Present to coast.....	.84	.75	.75	.65	.65	.65	.65	.65	.65
	Present to intermediates ...	1.10	1.00	1.00	.90	.90	.75	.75	.75	.75
	Proposed to coast.....	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
	Proposed to intermediates..	1.10	1.00	.95	.90	.85	.75	.75	.75	.75
1758	Wire rope, min. wt. 50,000 pounds:									
	Present to coast.....	.85	.85	.85	.85	.85	.85	.85	.85	.85
	Present to intermediates....	1.10	1.00	1.00	.90	.90	.75	.85	.85	.85
	Proposed to coast.....	1.10	1.00	.95	.90	.90	.85	.85	.85	.85
	Proposed to intermediates..	1.10	1.00	.95	.90	.90	.85	.85	.85	.85

In *Commodity Rates to Pacific Coast Terminals*, 32 I. C. C., 611, we authorized the transcontinental lines to establish their present rates to terminals and to intermediate points on items 1506, 1514, 1568, 1574, 1740, and 1758. The proposed rates on these items to the terminals are not higher than the present rates then authorized to intermediate territory. From group C and except on items 1506 and 1758 from group E they are lower than the present rates to intermediate points. The proposed rates to terminals and intermediate points on items 342, 718, 1000, and 1215 correspond closely with the proposed rates on the six items just mentioned. The rates proposed from the more easterly groups to the terminals are in some instances somewhat higher than the present rates to intermediate points, but do not appear to be unreasonable or out of proportion to the rates on other articles. Items Nos. 710, 712, 930, 952, and 1322 of tariff 1-P and item 1240 of tariff 4-N are representative examples of rates on schedule B articles. The present rates to the intermediate territory have not been specifically authorized by us, but the relation of such rates to the rates at the terminals was authorized in *Railroad Commission of Nevada v. S. P. Co.*, 21 I. C. C., 329, and in *City of Spokane v. N. P. Ry. Co.*, 21 I. C. C., 400. The proposed rates to the terminals on these items are in some instances slightly higher than the present rates to the intermediate territory, but the amounts by which they exceed such rates do not appear to be out of proportion to the increased hauls.

The carriers propose to cancel all less-than-carload commodity rates from eastern defined territories to the Pacific coast and intermediate points. Our report of June 30, 1917, required that the rates on such commodities to intermediate points should bear the same relation to the terminal rates as the class rates to such points bear to the terminal class rates. It is explained by the carriers that the publication of less-than-carload commodity rates to all points, graded as proposed, was a work of great difficulty, owing to the vast territory involved and the large number of less-than-carload commodity rates which had from time to time been established from eastern points to the Pacific coast on account of water competition. It was also asserted that the establishment of less-than-carload commodity rates on the plan required by us, if carried to its logical conclusion, influenced the rates on these commodities to territory as far east as the Mississippi River and perhaps Chicago, and had the effect of reducing the existing rates on many articles to a large part of the intermediate territory. The carriers therefore preferred to cancel all these rates, leaving the class rates to apply. Many objections to the cancellation of these rates were made by shippers and receivers of freight in various parts of the country. These objections may be summarized as follows:

First, the less-than-carload commodity rates are of long standing.

Second, business has become accustomed to their use, and their cancellation will result in much embarrassment and loss of business to persons who can not ship in carloads the articles they manufacture or sell.

Third, the increases resulting from the substitution of class rates are unreasonable in the light of all the conditions.

Fourth, the continuation of commodity rates on carloads to the coast and to the intermediate territory, and the cancellation of all the less-than-carload commodity rates, will result in an unreasonable relation in many instances between the carload and less-than-carload rates, and will cause unreasonable disadvantage to less-than-carload shippers.

Fifth, it is proposed to continue carload commodity rates to the coast and to intermediate points, partly in consideration of long-standing commercial conditions, and partly in consideration of the probability of a return of water competition when peace is restored. It is asserted that these conditions have been disregarded as to the less-than-carload commodity rates. The carriers assert that they had some hesitation about the cancellation of all the less-than-carload commodity rates, but believed that the method adopted was the only way in which they could comply with our order of June 30, 1917, without serious sacrifice of revenue. They also assert that if

we will modify the terms of that portion of our order relating to less-than-carload rates, giving them treatment similar to that accorded the carload rates, consideration will be given by them to some plan by which, in part at least, these rates may be continued.

PROPOSED RATES OF THE WATER-AND-RAIL LINES THROUGH GALVESTON.

The Southern Pacific Company, by its water-and-rail lines through Galveston, proposes to establish on approximately 60 items which move in large volume from the vicinity of New York, and which are adapted to transportation by water, rates which are the same from the New York piers of the Southern Pacific Company as those maintained by the all-rail lines from Chicago. On 36 of these items no commodity rates are published by the all-rail lines from points east of group D. On 24 items a full line of rates is published from and to all points. The Mallory Steamship Company, in connection with the Atchison, Topeka & Santa Fe Railway Company, proposes to publish the same rates on the 36 items from the piers of the Mallory line at New York to California ports and intermediate points as are proposed by the Southern Pacific Company. No objection was urged against the proposed rates from these piers on the 36 items upon which the all-rail lines do not publish rates from points east of group D.

Considerable criticism was offered respecting the policy of the Southern Pacific Company in singling out 24 items from a list of approximately 400, upon which a full line of rates is published from all groups to the Pacific coast, which are usually the same as by all-rail lines, and in proposing thereon rates which are generally 20 cents lower than those proposed by the all-rail lines. The reasons given by the Southern Pacific for so singling out these 24 items are that in connection with the all-rail lines that company has heretofore published on nearly all commodities from New York the same rates as were applied from Chicago; that the capacity of the ships available is not sufficient to move the traffic which would be offered if the Chicago rates were published on the entire list of commodities; that the traffic officers of the company desired to disturb as little as possible the existing conditions on the Pacific coast, and the rates applicable thereto from New York. It alleges that the rates proposed, while lower than reasonably might be applied, are not so low as to fail to provide compensation for the service rendered, and that the acceptance of this traffic at these rates can not be considered as imposing an undue burden upon other traffic.

Against the application of the Southern Pacific respecting the selection of the 24 items, it is urged that the use of its facilities for

transportation is a right that belongs to the shippers of the commodities not included in this selected list. Many such articles are produced in considerable volume on the Atlantic seaboard, and are adapted in a greater or less degree to transportation by water. It is urged that the shippers of such articles have as much right to consideration at the hands of this water-and-rail line as the shippers of the 24 selected items. There can be no doubt that this carrier may, if it sees fit, publish rates via its line from New York piers to the points on its lines in western states lower than the rates contemporaneously applied by the all-rail lines; but it is urged that the publication of such rates on a limited number of items, and the publication of the all-rail rates on all other items, will tend toward making this line a carrier exclusively of commodities within such selected list, and result in the exclusion of other shippers from the use of these facilities on equal terms.

The Southern Pacific is a party to the application of the all-rail lines which presents to us for approval a new schedule of rates from New York to western points. As an all-rail carrier, it concurs in the representations made to us respecting these rates that they are not unreasonable *per se* or relatively, one as compared with another. As a water-and-rail line, however, it assumes a different attitude, namely, that another and different relation as between these rates is more nearly proper when the rates apply via its water-and-rail line. For example, it is proposed to make the rate via the all-rail lines from New York to San Francisco \$1.10 on bolts, nuts, and washers, and also \$1.10 on billets, blooms, etc. The Southern Pacific, however, proposes to publish from its New York piers the rates of \$1.10 on billets and blooms, and 90 cents on bolts, nuts, washers, etc. Both groups of iron and steel articles originate on or near the Atlantic seaboard. Both are adapted to water transportation. Both take the same rate at present by all-rail and water-and-rail lines. It may be urged that such a relation of rates would be prejudicial to shippers of billets and blooms and unduly preferential of shippers of bolts, nuts, washers, etc. Under the circumstances now existing, all the facilities for transportation should be utilized to the fullest possible extent. It is not urged, however, that the selection of these 24 commodities, upon which this line proposes to publish lower rates than the all-rail lines, has been influenced by any such considerations.

## FIFTEENTH SECTION APPLICATION NO. 1822.

By this application authority is sought to file increased rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports via rail-and-water lines through Galveston to the

Atlantic seaboard. It is proposed to increase the rates on these articles to the level of the all-rail rates. No objection was presented to this application.

FIFTEENTH SECTION APPLICATION NO. 1077.

By this application authority is sought to file increased rates on commodities from designated points in the states of Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Nebraska, Oklahoma, Tennessee, Texas, and Wisconsin, and on certain named items from the New York piers of the Southern Pacific Company to Pacific coast points on traffic destined and consigned through to points in Japan, China, and the Philippine Islands, and, in specific cases, to points in Central and South America and Mexico. These rates are published in Trans-Continental Freight Bureau Joint and Proportional Tariff No. 22-H, R. H. Countiss, agent's, I. C. C. No. 1039. Representative examples of these rates and the changes proposed follow. It should be understood that the rates named apply in the main from Chicago and points west thereof. Such rates are, however, used as components in constructing export rates from points west of Chicago.

Item No.	Commodity.	Present.	Proposed.
		Cents.	Cents.
100	Iron and steel articles.....	32.5	47.5
195	Anchor rods, angles, etc.....	40	55
280	Machinery.....	55	75
310	Paints.....	65	85
315	Paper and articles of paper.....	65	85
335	Cast-iron pipe connections.....	45	60
350	Railway equipment.....	50	60

Section 3 of the tariff contains a blanket item naming rates on all commodities with certain designated exceptions as to articles which are fragile, perishable, or dangerous to transport. The present commodity rate is \$1.25 from the points of origin named to certain Pacific coast points on traffic destined to named points in China, Japan, and the Philippine Islands. The proposed rate is \$1.50.

The present rate is \$1.50 to certain Pacific coast ports on traffic destined to named points in Australia, New Zealand, and the Fiji Islands. The proposed rate is \$1.75. It is explained that the present export rates were established in the light of normal conditions when traffic was moving freely by water, both from the east and west coasts of the United States to Asiatic and other countries. The purpose of the rates has been to secure to the transcontinental lines participation in the traffic moving for export. Under normal con-

ditions the ocean rates from the east coast of the United States were only small amounts higher than the rates from the Pacific coast on traffic for Asiatic countries, and on traffic to New Zealand and Australia the rates from Atlantic coast points were usually less than from Pacific coast points. The present situation is that there is now as good or a better service from Pacific coast ports to Australia as from Atlantic ports, and the ocean rates, although indefinite and changing, are approximately the same from the Atlantic as from the Pacific coast. As to oriental traffic, the only definite figure which can be quoted as being fixed is that prevailing on the subsidized traffic subject to the control of the Japanese government. On that traffic the maximum rate from the Atlantic seaboard is \$30 per ton of 2,240 pounds, while on the same traffic from the Pacific coast the maximum rate is \$20 per ton of 2,000 pounds. Traffic from the east coast of the United States to the orient now moves through the Panama Canal, the Suez Canal not being open for commercial traffic. The carriers assert that the conditions hitherto prevailing have made necessary the publication of rates on these items and on other commodities materially lower than the domestic rates, but that the conditions now existing are such that they are not justified in continuing these rates which, in many instances, are extremely low.

## FIFTEENTH SECTION APPLICATION NO. 1088.

By this application authority is sought to file increased rates from points in the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, Oklahoma, Tennessee, Texas, Wisconsin, and from the New York piers of the Southern Pacific Company to Pacific coast ports on traffic destined and consigned through to Australia, New Zealand, and beyond. These rates are carried in Joint and Proportional Export Tariff No. 20-F, I. C. C. No. 1022 of R. H. Countiss, agent. Representative examples of such rates are the following:

Item No.	Commodity.	Present.	Proposed.
10	Agricultural implements.....	\$1. 17	\$1. 25
40	Drugs.....	1. 20	1. 50
70	Grading and road-making implements.....	1. 00	1. 25
95	Dredging machinery.....	1. 00	1. 25
150	Toilet soap.....	. 80	1. 00
175	Vehicles.....	1. 10	1. 25

There is also published in section 3 of the tariff a blanket commodity rate applicable upon all commodities, with designated exceptions as to articles which are fragile and perishable or dangerous to transport. The present rate is \$1.25 on traffic destined to points

in Japan, China, and the Philippine Islands, and \$1.50 on traffic destined to points in Australia, New Zealand, or the Fiji Islands. It is proposed to increase each of these rates by 25 cents.

FIFTEENTH SECTION APPLICATION NO. 1084.

By this application authority is sought to file increased import rates on commodities from Pacific coast ports to points in the United States and Canada on traffic originating in Asia and Australia, and in specific cases on shipments originating in Central and South America, Mexico, and the Hawaiian Islands. These rates are published in Trans-Continental Freight Bureau Eastbound Import Tariff No. 26-E, R. H. Countiss, agent's, I. C. C. No. 1033. Approximately 40 carload and 30 less-than-carload items are embraced in the list. The rates to eastern defined territories are usually, but not invariably, blanketed to all points in groups A to J, inclusive. Representative examples of carload rates are the following:

Item No.	Commodity.	Present.	Proposed.
45	Cocoa beans .....	\$0.65	\$0.75
75	Bulbs .....	1.00	1.15
90	Camphor.....	1.00	1.25
160	Coffee (to points in group C and west).....	.65	.75
230	Chinaware, crockery, etc.....	1.00	1.25
275	Glassware, n. o. s., and glasses.....	1.00	1.25
415	Oils .....	\$0.55-.65	.65

Representative examples of less-than-carload rates are the following:

Item No.	Commodity.	Present.	Proposed.
10	Antimony ware.....	\$1.50	\$2.00
30	Bamboo.....	1.50	1.75
215	Drugs.....	2.00	2.50
320	Isinglass.....	1.75	2.00
380	Matting.....	1.50	1.75

No general objections were made to these increases in export and import rates. Some specific objections were urged against particular rates by persons whose business was in some degree affected by the changes proposed.

FOURTH SECTION APPLICATIONS.

By Fourth Section Application No. 11149, the Western Pacific Railroad Company asks authority to apply from the New York piers of the Old Dominion Steamship Company, via the ships of that company, to Norfolk, Va., and connecting rail lines beyond the same

rates to California coast and intermediate points that are proposed to be applied by the Southern Pacific via its water-and-rail line through Galveston on the 24 commodities heretofore described, while applying higher rates from intermediate points on lines east of Chicago.

By Fourth Section Application No. 11150, the Atchison, Topeka & Santa Fe Railway Company, the Los Angeles & Salt Lake Railroad, the Western Pacific Railway and connections also seek authority to apply via all-rail lines from New York, N. Y., to California coast and intermediate points the same rates on the 24 commodities which the Southern Pacific proposes to apply, and higher rates from intermediate points east of group D.

By Fourth Section Applications Nos. 11178 and 11197 the Atchison, Topeka & Santa Fe Railway, the Los Angeles & Salt Lake Railway, the Western Pacific Railway, the Northern Pacific Railway, the Great Northern Railway, the Chicago, Milwaukee & St. Paul Railway, the Oregon-Washington Railroad & Navigation Company, the Spokane, Portland & Seattle Railway, the Canadian Pacific Railway, the Grand Trunk Pacific Railway, and the Canadian Northern Railway and their connections seek authority to apply from New York via all-rail lines to the Pacific coast ports the same rates on export traffic to points in Japan, China, Philippine Islands, Central and South America, Mexico, Australia, Fiji Islands, and New Zealand that are applied from the New York piers of the Southern Pacific, while continuing higher rates from intermediate points in transcontinental groups A, B, and C. The all-rail lines do not now publish through export rates from points east of group D to Pacific coast ports. Export rates are published on approximately 100 commodity items from many, but not all, points in group D and west. These rates are ordinarily the same from all points from which such rates are published. Upon 20 of these items, the Southern Pacific proposes to publish via its water-and-rail lines the same rates from its piers at New York to California ports as are proposed by the all-rail lines from points in group D.

By Fourth Section Applications Nos. 11186 and 11196 the Atchison, Topeka & Santa Fe Railway, the Los Angeles & Salt Lake Railway, the Western Pacific Railway, the Northern Pacific Railway, the Great Northern Railway, the Chicago, Milwaukee & St. Paul Railway, the Oregon-Washington Railroad & Navigation Company, the Spokane, Portland & Seattle Railway, the Canadian Pacific Railway, the Grand Trunk Pacific Railway, and the Canadian Northern Railway and their connections seek authority to apply via their lines the same rates from the Pacific coast ports to New York, N. Y.,

on import traffic originating in Asia, Philippine Islands, Australia, New Zealand, Fiji Islands, and in specific cases on shipments originating in Central and South America, Mexico, and the Hawaiian Islands as are applied by the Southern Pacific via its route through Galveston, while maintaining higher rates to points east of transcontinental group D.

By Fourth Section Application No. 11187 the same authority as outlined above is sought for the Western Pacific Railway and its connections via Norfolk and the Old Dominion Steamship Company as to the rates from all California coast points to the piers of the Old Dominion Steamship Company at New York. Import commodity rates to eastern defined territories are proposed by the all-rail lines on approximately 100 carload items and 70 less-than-carload items. These rates are usually, but not invariably, blanketed to all eastern defined territories. In the few cases where the rates are not so blanketed, the Southern Pacific proposes to apply the group D rates to its piers at New York.

We have carefully considered all of the evidence offered, both of a general and of a specific character, and it is our conclusion and we find:

1. The carriers should be authorized to file the increased rates proposed by the all-rail lines on all the carload commodities embraced in applications Nos. 824 and 1399.

2. The water-and-rail lines via Galveston should be authorized to file the increased carload rates proposed on articles as to which through all-rail rates are not published from group A to the Pacific coast and intermediate points.

3. The Southern Pacific Company should be denied authority to file rates on the 24 items mentioned in the report which are lower than the rates proposed by the all-rail lines, unless corresponding rates are published by that company on all commodities which are adapted to water transportation.

4. The authority sought by the all-rail lines to cancel all of the less-than-carload commodity rates from eastern defined territories to the Pacific coast and intermediate points should be denied, but they should be authorized to file increased rates on less-than-carload commodities to Pacific coast points not higher than the present rates on such commodities to the highest rated intermediate points.

5. The carriers should be authorized to file the increased export rates proposed in their applications Nos. 1077 and 1083 from eastern defined territories to the Pacific coast.

6. The carriers should be authorized to file increased import rates as described in application No. 1084 from Pacific coast ports to eastern defined territories.

7. The water-and-rail lines through Galveston should be authorized to establish commodity rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from all California ports to the Atlantic seaboard not higher than the present all-rail rates.

8. The all-rail lines and the water-and-rail lines through Norfolk seeking authority to depart from the provisions of the fourth section in order to meet the competition of the Southern Pacific Company via its water-and-rail route through Galveston have not shown that they are at such disadvantage in respect to this traffic as to justify fourth section relief and these applications should be denied.

An order will be entered in accordance with these findings.

ATCHISON, *Commissioner*, dissenting in part:

The order of the Commission entered June 30, 1917, effective October 15, 1917, which denied authority to maintain rates on commodities from eastern defined territory to Pacific coast ports lower than the rates contemporaneously in effect on like traffic, to intermediate points, could manifestly have been met by the filing of tariffs reducing the rates to intermediate points to the Pacific coast port level as well as by increasing the coast terminal rates. The carriers have followed the latter course. I am unable to agree with the majority of the Commission in the interpretation it placed upon the amended fourth section of the act in *Transcontinental Rates*, 46 I. C. C., 236, 252, which followed its decision *Reopening Fourth Section Applications*, 40 I. C. C., 35. The adjustment proposed in the tariffs now before the Commission can be justified only by ignoring the last paragraph of the amended fourth section, and this in my judgment can not lawfully be done.

I can not find that as to the commodity rates proposed in schedules B and C, where advances are made either to the intermountain country or to the Pacific coast ports, the carriers have justified the advanced rates as reasonable. In cases before the Commission in which certain rates were prescribed as reasonable in and of themselves to various intermountain points, the whole traffic of this section was not before the Commission as is now the case, and it by no means follows that rates which might then have been prescribed as reasonable would have been made if the whole Pacific slope traffic instead of a limited portion thereof had been under consideration.

In the remainder of the report I concur.

48 I. C. C.

# THE WABASH PITTSBURGH TERMINAL INVESTIGATION.

No. 8663.

## IN RE FINANCIAL HISTORY, TRANSACTIONS, PRACTICES, AND OPERATIONS OF THE WABASH PITTSBURGH TER- MINAL RAILWAY COMPANY, ITS LEASED PROPERTIES AND ITS PREDECESSOR COMPANIES.

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*December 17, 1917.*

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### REPORT OF THE COMMISSION.

#### BY THE COMMISSION:

Pursuant to a request of the Committee on Interstate and Foreign Commerce of the House of Representatives,<sup>1</sup> the Commission, on February 19, 1916, entered upon a proceeding of inquiry and investigation into and concerning the character and extent of the service and the financial history, transactions, and practices of the Wabash Pittsburgh Terminal Railway Company, its leased properties and predecessor companies, and makes the following report in response thereto.

In the conduct of the investigation, and in the preparation of the report and its appendix, recourse has been had to testimony given and exhibits and petitions filed in various court and other proceedings when they afforded authoritative information about matters not of record in the carrier's accounts and records.

Throughout the report, for convenience, the Pittsburgh-Toledo syndicate will be referred to as the "syndicate;" the Wabash Pittsburgh Terminal Railway Company as the "Terminal;" the Wabash Railroad Company as the "Wabash;" the Wheeling & Lake Erie Railroad Company as the "Wheeling;" the West Side Belt Railroad Company as the "West Side Belt;" and the Pittsburgh Terminal Railroad & Coal Company as the "coal company."

#### INTRODUCTION.

The building of the Terminal into Pittsburgh, the resultant break between the Gould and the Pennsylvania Railroad interests, and the subsequent bankruptcy of the Terminal, followed by the collapse of the scheme for a transcontinental railroad under Gould control, are important events in recent railroad history. The possibilities held

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<sup>1</sup> Reprinted in Appendix 22.

out, when the bonds of the Terminal were first being sold, of that company's securing a large share of the traffic of the Pittsburgh district, were alluring, and the failure of the company to secure more than barely sufficient traffic to meet its operating expenses was complete. The plan of reorganization, now practically concluded, was unusually drastic.

The Terminal owns a 60-mile single-track road running over 88 bridges and through 18 tunnels from Pittsburgh Junction, Ohio, where it has a connection with the Wheeling, to the corner of Ferry street and Liberty avenue in the city of Pittsburgh. The entrance into Pittsburgh was secured by tunneling the rock-bound ridge on the west bank of the Monongahela River, crossing that river over a bridge 1,504 feet long, and by building a line to its Ferry street station and yards under an old street railway franchise. The record indicates that the Pennsylvania Railroad considered the Terminal's entrance into Pittsburgh an invasion of its territory.

In addition to its main line, the Terminal owned a majority of the stock of the Wheeling, and all of the stock and bonds of the coal company. The coal company, in turn, owned the stock and bonds of the West Side Belt—a single-track railroad 21 miles in length—running from a point in the west end of Pittsburgh to Clairton, Pa.

Following the failure of the Terminal to meet its note and interest obligations, receivers were appointed and shortly thereafter its traffic and trackage contract with the Wheeling and the Wabash, considered one of the Terminal's valuable assets, was canceled. Foreclosure proceedings were then brought. The properties of the Terminal were sold, on August 16, 1916, to a reorganization committee and are now owned by a new company, the Pittsburgh & West Virginia Railroad Company. While the property under consideration is now owned and operated by the Pittsburgh & West Virginia Railroad Company, it should be borne in mind that this investigation was confined to the Terminal and its predecessor companies.

#### PITTSBURGH-TOLEDO SYNDICATE.

The Pittsburgh-Toledo syndicate, formed by a written agreement dated February 1, 1901, and supplement of April 8, 1901, was the outgrowth, as the record shows, of the desire of Andrew Carnegie, of the Carnegie Steel Company, and of the Gould interests, to have another railroad serve Pittsburgh. The idea originated, apparently, with Joseph Ramsey, jr. He was vice president and general manager of the Wabash from 1895 to 1901, and president from 1901 to 1905. Ramsey was also president of the Western Maryland Railway Company during 1903 and 1904.

George J. Gould, a director of the Wabash, Joseph Ramsey, jr., its vice president and general manager, together with Louis Fitzgerald,

president of the Mercantile Trust Company of New York, were designated as syndicate managers. Later, Myron T. Herrick, chairman of the board of directors of the Wheeling, and James Hazen Hyde, president of the Equitable Trust Company, became members of the managing board.

The members of the syndicate subscribed \$20,000,000 to be used in acquiring control of the Wheeling and in building a line from a convenient point on the Wheeling to the city of Pittsburgh. Ramsey was chosen as the active directing manager of the syndicate, and as such applied for charters and franchises, executed contracts for the building of the road, and supervised the expenditures.

In the Wheeling foreclosure proceedings Gould testified that at the time the syndicate was formed the object was to get a line into Pittsburgh and that a connection beyond Pittsburgh was not then contemplated. Ramsey, in the same proceeding, testified that he became president of the Western Maryland Railway in 1903 because he had been made president of the Western Maryland syndicate. Gould was not, apparently, among the originators of the Western Maryland syndicate, but upon becoming interested later, requested Ramsey to serve on this syndicate, presumably to look after the Gould interests.

Neither Gould nor Ramsey testified that the Terminal was to be connected with the Western Maryland to complete the proposed so-called coast to coast line of the Gould interests, but B. A. Worthington, formerly vice president of the Wheeling and the Terminal, testified in the foreclosure proceedings of the Wheeling as follows:

If we could have multiplied the tonnage of the Wabash Pittsburgh Terminal and carried out the plan Mr. Gould had in mind, of connecting up with the Western Maryland, and had the Wabash traffic going that way instead of going up around Detroit, we probably would have kept out of a receiver's hands.

F. A. Delano, who succeeded Ramsey as president of the Wabash and its eastern subsidiaries, testified in the same proceeding as follows:

I understand it was Mr. Ramsey's idea to cross the Allegheny River with a line that crosses into Pittsburgh. He was trying to get a charter for a bridge, and there connect with the Buffalo, Rochester & Pittsburgh, and thus get an outlet to the east. He also expected, by means of the West Side Belt, and completion of the Western Maryland, to get a good connection or outlet to Baltimore. Both of these things would have made a tremendous change in the whole situation.

Immediately after its organization the syndicate managers entered into a contract with the Union Railroad Company and the Carnegie Steel Company at Pittsburgh, whereby the syndicate managers, in consideration of receiving certain traffic, agreed to construct, purchase, or lease such lines of railway as would be required to make a continuous route to Chicago.

The syndicate incorporated the Pittsburgh & Carnegie Railroad Company, and under its charter planned to effect an entrance into the city of Pittsburgh. This charter, however, conflicted with a charter previously granted to the Pittsburgh & Mansfield Railroad Company and so the property of the latter was purchased. The syndicate then incorporated the Washington County Railroad Company to provide an extension of the Pittsburgh & Mansfield to the Pennsylvania-West Virginia state line, and later consolidated the two companies into the Pittsburgh, Carnegie & Western Railroad. It also secured the incorporation of the Cross Creek Railroad Company and the Pittsburgh, Toledo & Western Railroad Company. Under the charter of the former there was to be constructed the line in West Virginia, and under the latter, the line in Ohio.

The syndicate purchased control of the Wheeling and caused to be executed a traffic and trackage contract between the Wabash, the Wheeling, and the Pittsburgh, Carnegie & Western. Concerning these matters more is said later.

As the construction work under the charters of the three separate railroad companies was nearing completion, the syndicate caused to be organized, by consolidation and merger, the Wabash-Pittsburgh Terminal Railway Company, to which it made a proposal to transfer the Wheeling stock, a majority of which, issued and outstanding, was owned by the syndicate; the Carnegie traffic agreement, and the traffic and trackage agreement between the Wheeling, the Wabash, and the Pittsburgh, Carnegie & Western were also assigned to the Terminal; the syndicate further agreed to call and pay over to the Terminal the unpaid portion of the syndicate subscription; to assign to it an agreement of the Wabash to purchase \$6,600,000 of Terminal first mortgage bonds for \$6,000,000; and, to discharge and release the Terminal from all indebtedness and claims owing to the syndicate. As the consideration of this undertaking the Terminal agreed to deliver to the syndicate \$20,000,000 of first mortgage bonds, \$20,000,000 of second mortgage bonds, and \$10,000,000 of capital stock.

The acceptance of this proposal by the Terminal resulted in the final call upon the syndicate subscribers and the winding up of the syndicate affairs.

All the above matters are treated of more fully in the following pages.

#### WABASH-PITTSBURGH TERMINAL RAILWAY COMPANY AND ITS PREDECESSOR COMPANIES.

From what has been said it appears that the Wabash-Pittsburgh Terminal Railway Company is the successor, through consolidation and merger, as of May 9, 1904, of the Pittsburgh, Carnegie & Western

Railroad Company, a Pennsylvania corporation, the Cross Creek Railroad Company, a West Virginia corporation, and the Pittsburgh, Toledo & Western Railroad Company, an Ohio corporation.

The Pittsburgh, Carnegie & Western Railroad Company is the successor, through consolidation and merger, as of July 17, 1901, of the Pittsburgh & Mansfield Railroad Company and the Washington County Railroad Company, both Pennsylvania corporations.

The Cross Creek Railroad Company was incorporated under the laws of West Virginia on April 23, 1900.

The Pittsburgh, Toledo & Western Railroad Company was incorporated under the laws of Ohio on April 3, 1901.

#### PITTSBURGH & MANSFIELD RAILROAD COMPANY.

The Pittsburgh & Mansfield Railroad Company is the successor, through judicial sale on August 2, 1898, of a company of the same name which was incorporated under the laws of Pennsylvania on August 23, 1893.

The original company was incorporated for a term of 999 years for the purpose of constructing, maintaining, and operating a railroad from a point in the first ward in the city of Pittsburgh to a point near the western limits of the borough of Mansfield, now Carnegie, in Allegheny county, Pa. Its authorized capital stock was \$50,500, consisting of 1,010 shares of a par value of \$50 each.

The existing records of the Pittsburgh & Mansfield Railroad Company do not include a cashbook and ledger. There was found, however, a cash statement, supported by receipts of the original company, from which the following statement has been prepared:

	Debit.	Credit.
Receipts Aug. 23, 1893, to July 22, 1896: Subscription to capital stock— Six calls made, aggregating 64 per cent, less subscriptions called and unpaid of \$7,170.....	\$25,150.00	.....
Disbursements, Aug. 23, 1893, to May 12, 1898: Fees to the state of Pennsylvania— Incorporation.....		\$85.00
Increase of capital stock.....		35.00
Taxes.....		356.76
Legal expenses.....		700.00
A. B. Co.—Loan.....		2,600.00
Treasurer—Incidentals.....		115.70
Engineering.....		791.61
Legal and sundry expenses obtaining franchises.....		2,643.33
Real estate purchased, options secured, and interest on mortgages.....		19,057.00
Total.....	25,150.00	26,384.40

The installment receipt book shows stubs of receipts issued subsequent to July 22, 1896, as follows: February 12, 1898, \$500; June 22, 1898, \$250. Apparently these amounts should be added to the item of \$25,150; and, so far as the records indicate, the aggregate of these items represents the total of the stockholders' contributions to August,

1898, when the company was sold under judicial order and reorganized. There probably were further receipts from the sale of lands, but no record thereof was found in any book or memorandum of the original company. So far as concerns the affairs of the reorganized company, no records or memoranda of receipts and disbursements were found.

There are no records to show what property was purchased, options secured, or interest paid as a result of the expenditure of \$19,057 shown in the preceding statement. The minutes of the directors' meetings contain references to real estate transactions but they are not definite enough to permit ready identification, and the county records do not show that any deeds for property acquired have been recorded in the name of the Pittsburgh & Mansfield Railroad Company.

In a court proceeding<sup>1</sup> admission was made that W. F. Aull held property as trustee for the Pittsburgh & Mansfield Railroad Company, and it would therefore appear that purchases for the railroad company were made through an individual and held by him in trust. From various records, it seems reasonably well established that the Pittsburgh & Mansfield Railroad acquired, and for a while, held title, through a trustee, to four pieces of property in Pittsburgh, only one lot of which, subject to a mortgage of \$10,000, remained the property of the company when J. W. Patterson, representing the Pittsburgh-Toledo syndicate, purchased the entire capital stock of the Pittsburgh & Mansfield Railroad Company.

By an ordinance of the city of Pittsburgh, approved March 5, 1894, the Pittsburgh & Mansfield Railroad Company was given the right to construct and maintain an elevated railroad running from Liberty avenue and Ferry street in a southerly direction to the city line, crossing the Monongahela River at Ferry and Water streets, and passing through Mount Washington by tunnel. This ordinance required that work be commenced within one year and finished within five years. A subsequent ordinance extended the time to October 1, 1899.

The capital stock of the Pittsburgh & Mansfield Railroad Company was increased from \$50,500 to \$1,000,000, on June 13, 1896.

The board of directors, with the consent of the stockholders, authorized, on January 26, 1897, the borrowing of \$1,000,000 to be expended for the construction of the road. To raise this sum there were to be issued 30-year 6 per cent first mortgage bonds secured on the property and franchise of the company.

<sup>1</sup>Court of common pleas, No. 2, Allegheny county, Pa., No. 105, January term, 1904, Elva Rollins v. P., C. & W. R. R. Co.

The records of the now defunct Mercantile Trust Company, trustee of the first mortgage bonds, show that on October 29, 1897, the trust company countersigned 100 bonds with a par value of \$100,000. They show, further, that on November 10, 1897, the trust company issued 12 of these bonds to railroad contractors, and that on February 19, 1898, 12 additional bonds were issued. Seventy-six bonds have never been issued by the trust company and are still in its possession. The 24 bonds issued to the contractors have not been canceled by the trustee.

It is understood that McCutcheon & McKee, to whom the 24 bonds were given, began the construction of the railroad but got into financial difficulties just after the completion of the piers for the bridge across the Monongahela River, and that they were succeeded by Curran & Hussey, by whom apparently nothing was done.

A suit was entered against the Pittsburgh & Mansfield Railroad Company, in September, 1895, for \$500 for services incident to the preparation, presentation, and passage of a bill in Congress for the erection of a bridge across the Monongahela River. Judgment was obtained and the records show that there were sold on August 2, 1898, by sheriff's sale, "all the rights, title, interest, and claim of the defunct corporation of, in, and to, any personal, mixed or real property, franchises and rights of defunct corporation, *excepting lands held in fee* \* \* \* for \$520."

The company was reorganized on August 19, 1898, under the same name and with a capital stock of \$1,000,000, which was distributed to those persons "for and on whose behalf said property, franchises and rights were purchased," as follows:

Name.	Shares.	Name.	Shares.
H. E. Barlow.....	1	A. M. O'Brien.....	1
C. G. Hussey.....	12,197	M. L. Knight.....	1
Thos. B. Hutchinson.....	1	Total.....	20,000
E. K. Morse.....	7,798		
R. H. Binns.....	1		

On January 26, 1901, J. W. Patterson, through a written agreement with J. R. McCreery, a Pittsburgh attorney, obtained an option on the purchase of the entire capital stock of the Pittsburgh & Mansfield Railroad, for \$130,000, McCreery agreeing to deliver the road to the purchaser free of all debt except the liability under condemnation proceedings brought by the Clinton Iron & Steel Company.

From a subsequent agreement dated April 8, 1901, it appears that J. R. McCreery was unable to deliver the entire 20,000 shares of capital stock or to deliver a right of way over certain properties. However, he was able to deliver 12,200 shares at the agreed price of \$6.50,

or at an aggregate price of \$79,300. From this amount he agreed that J. W. Patterson should retain \$9,300 with which to purchase the required right of way, and \$7,500 for the payment of all state taxes then due by the railroad company. The net payment to J. R. McCreery was, therefore, \$62,500: The balance of the capital stock, except two shares, was purchased by J. W. Patterson from E. K. Morse and associates under an agreement dated May 23, 1901, for \$50,500. The remaining two shares were acquired, but there is nothing to show what, if anything, was paid for them.

The single piece of real estate listed among the assets to be acquired, upon purchase of the entire capital stock, cost the railroad \$5,500 in cash, the balance being paid by a purchase money mortgage of \$10,000. As the purchaser of the capital stock assumed the payment of the mortgage, the equity acquired in the real estate thus transferred amounted to only \$5,500.

The expenditures by J. W. Patterson in the acquisition of the Pittsburgh & Mansfield Railroad were made for the account of the syndicate, as shown by Patterson's cashbook. The expenditures for this purpose were:

Secretary of commonwealth of Pennsylvania.....	\$35
J. R. McCreery.....	62, 500
E. K. Morse.....	50, 500
Purchase of mortgage.....	10, 375
Total.....	<sup>1</sup> 123, 410

The original Pittsburgh & Mansfield Railroad Company, by special act of Congress, was authorized to construct, maintain, and operate a railroad bridge across the Monongahela River between a point at or near the junction of Ferry and Water streets, in Pittsburgh, and a point on the opposite side at or near the line of Carson street. The bridge was to have an 80-foot elevation and a main span of 750 feet. It was provided that construction should commence within one year and the bridge be completed within three years. By special acts of Congress, the time for completing the bridge was extended to March 2, 1904, and the required elevation reduced to 70 feet.

The officers of the Pittsburgh & Mansfield Railroad Company, elected after control of the entire capital stock was secured by J. W. Patterson, were J. O'C. Campbell, president, E. G. Mooney, vice president, Wm. J. Burns, jr., treasurer, and T. B. Foley, secretary. These officers were elected directors, as were also C. McK. Watts, Theodore Ortman, and J. W. Patterson.

#### WASHINGTON COUNTY RAILROAD COMPANY.

The Washington County Railroad Company was incorporated under the laws of Pennsylvania on April 17, 1900, for a term of 999

<sup>1</sup> See Appendix 1.

years, for the purpose of constructing, maintaining, and operating a railroad from a point in Green Tree borough, Allegheny county, to a point at or near Venice, Washington county, a distance of about 15 miles. Its authorized capital stock was \$150,000, consisting of 3,000 shares of a par value of \$50 each. The articles of association designated J. O'C. Campbell as president, and J. W. Patterson, Thos. B. Foley, Theo. Ortman, Jas. G. Corcoran, Wm. W. Ford, and Ernest E. Jones as directors.

Amended and supplemental articles of association were filed on June 24, 1901, providing for the extension of the road to the Pennsylvania-West Virginia state line and an increase in the capital stock to \$200,000.

The cashbook of J. W. Patterson shows an aggregate expenditure on account of the Washington County Railroad Company of \$205,586.05. Of this amount the syndicate contributed \$204,000, the remaining \$1,586.05 being obtained from rentals of property purchased.

From the available records of the Washington County Railroad Company the following tabulation is made showing the disposition of the \$205,586.05:

Engineering.....	\$5, 025. 44
Land for transportation purposes.....	81, 450. 85
Organization expenses.....	910. 67
General officers and clerks.....	100. 00
Stationery and printing.....	40. 05
Repairs to rented buildings acquired with purchase of land for right of way.....	19. 24
Cash on hand.....	118, 039. 80
Total.....	<u>205, 586. 05</u>

Details of this carrier's investment in road and equipment, prior to May 10, 1904, are shown in Appendix 1.

#### PITTSBURGH, CARNEGIE & WESTERN RAILROAD COMPANY.

The Pittsburgh, Carnegie & Western Railroad Company is the successor, through consolidation and merger on July 17, 1901, of the Pittsburgh & Mansfield Railroad Company and the Washington County Railroad Company, as previously explained.

The articles of consolidation and merger provided that the capital stock of the new company should be \$2,000,000, consisting of 40,000 shares with a par value of \$50 each, and that it should be issued as follows:

Pittsburgh & Mansfield Railroad Company to receive \$1,600,000 par value of the stock of the new company in exchange for its capital stock of \$1,000,000;

Washington County Railroad Company to receive \$400,000 par value of the stock of the new company in exchange for its capital stock of \$200,000.

The board of directors, at a meeting held July 20, 1901, elected J. W. Patterson chief engineer and general manager, with authority to conduct the general business affairs of the company, acquire a right of way, and construct the railroad.

A number of surveyed locations for branch lines were adopted by the board of directors at different meetings. Practically all of these locations were chosen to enable the carrier to reach industries along the Monongahela and Allegheny rivers and to connect the carrier's line with the following railroads:

Union Railroad, affiliated with the Carnegie Steel Company;  
 Monongahela Connecting Railroad, affiliated with the Jones & Laughlin Steel Company;  
 McKeesport Terminal Railroad;  
 Pittsburgh Junction Railroad, affiliated with the Baltimore & Ohio Railroad; and  
 Pittsburgh & Western Railroad, also affiliated with the Baltimore & Ohio Railroad.

The franchises granted to the Pittsburgh Junction Railroad and the Pittsburgh & Western Railroad by the cities of Pittsburgh and Allegheny, respectively, provided for physical connection and interchange of traffic with any railroad then or thereafter authorized to operate within the city limits.

Locations for other branch lines were adopted after the merging of this company into the Wabash-Pittsburgh Terminal Railway Company on May 9, 1904. These will be referred to later. The construction expenditures of the Pittsburgh, Carnegie & Western are shown in Appendix 1.

#### CROSS CREEK RAILROAD COMPANY.

The Cross Creek Railroad Company was incorporated under the laws of West Virginia on April 23, 1900, for the purpose of constructing, maintaining, and operating a railroad through Brooks county, W. Va., along or near Cross Creek from the Pennsylvania state line to the Ohio state line. Its authorized capital stock was \$1,000, consisting of 20 shares of a par value of \$50 each. Its incorporators, James G. Corcoran, J. W. Patterson, J. O'C. Campbell, T. B. Foley, and Theodore Ortman, owned all the capital stock and also constituted the board of directors. The capital stock was increased November 15, 1901, to \$1,000,000.

The details of this carrier's investment in road and equipment, secured from the records now available, are shown in Appendix 1.

#### THE PITTSBURGH, TOLEDO & WESTERN RAILROAD COMPANY.

The Pittsburgh, Toledo & Western Railroad Company was incorporated under the laws of Ohio on April 3, 1901, for the purpose of constructing, maintaining, and operating a railroad from a point on the Ohio River near Mingo Junction, to Toledo. On November 19,

1902, an amendment to the charter was made, changing the western terminus of the road to Jewett, Ohio. Its authorized capital stock was \$1,000,000, consisting of 10,000 shares of a par value of \$100 each. Its incorporators were J. W. Patterson, N. P. Ramsey, A. G. Feight, A. B. Ridgeway, and B. C. Winston. The officers were N. P. Ramsey, president; A. M. Neeper, vice president; and B. C. Winston, secretary. The directors were N. P. Ramsey, A. M. Neeper, J. W. Patterson, E. C. Morton, and A. G. Feight. The construction expenditures of the Pittsburgh, Toledo & Western Railroad Company to May 10, 1904, are shown in Appendix 1.

THE WABASH-PITTSBURGH TERMINAL RAILWAY COMPANY.

The Wabash-Pittsburgh Terminal Railway Company is the successor, through consolidation and merger on May 9, 1904, of the Pittsburgh, Carnegie & Western Railroad Company, the Cross Creek Railroad Company, and the Pittsburgh, Toledo & Western Railroad Company, as previously explained.

The articles of consolidation and merger provided that the capital stock of the new company should be \$4,000,000, consisting of 80,000 shares of a par value of \$50 each, and that it was to be exchanged, at par, for the capital stock of the merged companies. On May 11, 1904, the capital stock was increased to \$10,000,000 and this amount was subsequently issued. On the same date authority was given for the creation of a bonded indebtedness of \$70,000,000, consisting of \$50,000,000 first mortgage 4 per cent 50-year gold bonds, and \$20,000,000 second mortgage 4 per cent 50-year gold bonds. The bonds were to be dated May 10, 1904, with interest payable from June 1, 1904; the interest on the second mortgage bonds, however, was "to be payable for the period of six years from the date of such bonds only out of the net earnings and revenues of the company, as defined in said mortgage, and thereafter to be payable absolutely" on the interest dates.

The directors and officers named in the articles of consolidation and merger are shown below, together with their successors and the dates upon which the latter were elected.

Directors.

Original directors.	Succeeded by—	Succeeded by—
J. W. Patterson.....	B. A. Worthington (July 20, 1905).....	A. H. Calef (May 24, 1905).
William J. Burns, jr.....	Jos. Ramsey, jr. (June 24, 1904).....	G. J. Gould (June 15, 1904).
James O'C. Campbell.....	A. H. Calef (May 11, 1904).....	F. H. Skelding (Nov. 28, 1905).
John T. Walsh.....	Resignation accepted (Sept. 25, 1905)...	
Thomas B. Foley.....	R. L. Porter (Jan. 8, 1906).....	
George W. Beckwith.....		
N. P. Ramsey.....	Charles Donnelly (Jan. 8, 1906).....	J. G. Stidger (Jan. 11, 1906).

THE WABASH PITTSBURGH TERMINAL INVESTIGATION. 107

The number of directors was increased at special meetings of the board held in New York City, and elections to the positions thus created were as follows:

Name.	Residence.	Date elected.
Benjamin Nicoll.....	New York City...	Nov. 9, 1904
E. T. Jeffery.....	do.....	Do.
J. H. McClement.....	do.....	Dec. 15, 1904
Winslow S. Pierce.....	do.....	Do.
Lawrence Greer.....	do.....	Do.
A. H. Calef <sup>1</sup> .....	do.....	Do.
W. D. Holliday <sup>2</sup> .....	Pittsburgh, Pa....	Do.
C. C. McCarthy.....	do.....	Do.

<sup>1</sup>Succeeded by F. A. Delano, Apr. 19, 1905.  
<sup>2</sup>Resignation accepted Nov. 28, 1905. Succeeded by Thos. E. Young, Cleveland, Ohio, who in turn was succeeded by Wm. Duncan, Cleveland, Ohio, Jan. 14, 1907.

Officers.

Original officers.	Succeeded by—	Succeeded by—
N. P. Ramsey, chairman.....	A. H. Calef (May 11, 1904).....	G. J. Gould (June 15, 1904).
J. W. Patterson, president.....	Jos. Ramsey, jr. (June 24, 1904).....	F. A. Delano (Apr. 19, 1905).
J. T. Walsh, vice president.....	Not reelected (Jan. 31, 1905).....	
T. B. Foley, secretary.....	H. B. Henson (June 15, 1904).....	
W. J. Burns, jr., treasurer.....	.....do.....	

Additional officers.

Name and date elected.	Succeeded by—
J. W. Patterson, chief engineer (May 11, 1904).....	G. T. Barnsley (about June 15, 1905).
H. B. Henson, vice president (May 11, 1904).....	Resigned (June 15, 1904).
Guy Phillips, vice president (May 11, 1904).....	Not reelected (Jan. 31, 1905).
L. F. Timmerman, assistant secretary, assistant treasurer (May 11, 1904).	Resigned assistant secretary (June 15, 1904).
W. J. Burns, jr., assistant treasurer (June 15, 1904)....	J. G. Stidger (Apr. 19, 1905).
T. B. Foley, assistant secretary (June 15, 1904).....	Resigned (Apr. 19, 1905).
J. W. Patterson, vice president (June 24, 1904).....	B. A. Worthington (July 20, 1905).
John C. Otteson, assistant secretary (Aug. 19, 1904)...	Not reelected (Jan. 31, 1905).
A. H. Calef, vice president (Aug. 19, 1904).....	Reelected (Jan. 31, 1905).
W. M. Bonar, assistant secretary (Apr. 19, 1905).....	R. L. Porter (Jan. 11, 1906).

At a special meeting of the board of directors held in New York City, November 9, 1904, the following directors were elected as the executive committee of the board:

- George J. Gould.
- Jos. Ramsey, jr. (succeeded by F. A. Delano, May 24, 1905).
- Benj. Nicoll.
- E. T. Jeffery.
- J. W. Patterson (succeeded by J. H. McClement, December 15, 1904).

The record clearly indicates that George J. Gould was the dominating factor in the management of the Wabash, the Terminal, and the Wheeling.

The first meeting of the board of directors of the Terminal on May 11, 1904, received and acted upon a communication from the syndicate, wherein it proposed:

1. To assign and transfer certain shares of the capital stock of the Wheeling & Lake Erie Railroad;
2. To assign and transfer contract with the Carnegie Steel Company and the Union Railroad;
3. To secure the extension to June 1, 1954, of the traffic and trackage contract, and also to secure a supplemental agreement upon the part of the Wabash Railroad Company and the Wheeling & Lake Erie Railroad Company, under which these companies were to pledge 25 per cent of the gross earnings derived east of Chicago and St. Louis, from traffic interchanged with or passing over the road of the Wabash-Pittsburgh Terminal Railway Company, up to an amount which may be required to meet any deficiencies of income of the Wabash-Pittsburgh Terminal Railway Company second mortgage bonds hereinafter mentioned;
4. To call the unpaid portion of the syndicate subscription and pay over the same to the Wabash-Pittsburgh Terminal Railway Company;
5. To deliver an agreement on the part of the Wabash Railroad Company to purchase \$6,600,000 of first mortgage bonds and to pay therefor \$6,000,000;
6. To discharge and release the Wabash-Pittsburgh Terminal Railway Company from the indebtedness owing by it to the syndicate, being the amount of money advanced from time to time by the syndicate to the Terminal or its predecessors; and
7. To release all claims and demands of whatsoever nature on the part of the syndicate against the Wabash-Pittsburgh Terminal Railway Company.

In consideration of the above, the Wabash-Pittsburgh Terminal Railway Company was to create a funded debt of \$50,000,000 first mortgage 4 per cent bonds and \$20,000,000 second mortgage bonds, and to increase the capital stock \$6,000,000. Of the first mortgage bonds, there was to be delivered to the syndicate \$13,400,000 and to the Wabash Railroad Company, \$6,600,000, the latter in accordance with the previously mentioned agreement with that company. Of the remaining unissued first mortgage bonds, \$5,000,000 was to be used for construction and improvements in Pittsburgh and the Pittsburgh district, according to existing plans, and \$25,000,000 was to be issued under carefully guarded restrictions. The entire \$20,000,000 of second mortgage bonds and \$6,000,000 of capital stock was to be delivered to the syndicate. The syndicate already held \$4,000,000 of the capital stock, which had been exchanged for the capital stock of the merged companies.

The proposition of the syndicate was approved and accepted by the board of directors at the same meeting, subject, however, to approval of the stockholders, which was given at a meeting held on the same day.

The carrier, in the opening entries on its books, charged to "Cost of road," \$44,000,000, and to "Wheeling & Lake Erie Railroad—Stock on Hand," \$6,000,000, thus offsetting the par value of the following securities issued and outstanding:

Capital stock.....	\$10,000,000
First mortgage bonds.....	20,000,000
Second mortgage bonds.....	20,000,000

A further explanation of the opening and subsequent entries affecting cost of road account is given in another part of this report.

The book value of \$6,000,000 placed on the Wheeling stock (118,700 shares common, 8,475 shares first preferred, 64,238 shares second preferred) may be questioned in view of the testimony of

Washington E. Connor in the foreclosure proceedings of the Wheeling. Connor testified:

A. Mr. Gould told me that he would like to buy control of the Wheeling & Lake Erie Railroad Company, and he entered into an agreement with me, whereby I bound myself to turn over a majority of the stock, and the prices were 15 for the common and 35 for the preferred. I was to try to get a larger proportion of common than the preferred if I could do so, and I finally turned over to him, or to the Mercantile Trust Company, on his orders, 60,000 shares of the second preferred, 112,400 of the common and then I obtained 6,300 shares of the common from Frank J. Gould, who had bought it in the market and rather interfered with my market in doing it.

Q. Any first preferred?

A. No first preferred.

It will be seen that Connor acquired all of the Wheeling stock except 8,475 shares of first preferred and 4,238 shares of second preferred which was later turned over to the Terminal at a cost, to the syndicate, of \$3,880,500. It would seem therefore that the book value of the stock transferred by the syndicate, if based on cost, should not have been in excess of \$4,500,000.

Some of the Wheeling's stock records were destroyed by fire but from the records now available the following details relative to the acquisition of Wheeling stock by the Pittsburgh-Toledo syndicate were secured:

COMMON STOCK, 118,700 SHARES.

38,580 shares were purchased by W. E. Connor from 245 individuals and companies; 79,920 shares held nominally in the name of H. B. Thorne, an employee of the Mercantile Trust Company, were transferred to W. S. Wilson, also an employee of the Mercantile Trust Company, on October 13, 1904. On April 14, 1905, this stock was transferred to H. B. Henson, secretary of the Terminal.

100 shares were transferred by Joseph Ramsey, jr., to H. B. Henson, secretary of the Terminal, on April 14, 1905.

100 shares were transferred by George J. Gould to H. B. Henson, secretary of the Terminal, on April 14, 1905.

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118,700 shares.

FIRST PREFERRED STOCK, 8,475 SHARES.

8,475 shares of first preferred stock were sold on March 13, 1902, at 54. This stock was issued in the name of H. B. Thorne, an employee of the Mercantile Trust Company. On October 13, 1903, Thorne transferred this stock to W. S. Wilson, also an employee of the Mercantile Trust Company; on April 15, 1905, Wilson transferred the stock to H. B. Henson, secretary of the Terminal.

SECOND PREFERRED STOCK, 64,238 SHARES.

24,853 shares were transferred from 145 individuals to A. W. Krech, secretary of the Pittsburgh-Toledo syndicate; on April 15, 1905, Krech transferred this stock to H. B. Henson, secretary of the Terminal.

39,385 shares were transferred on October 13, 1903, by H. B. Thorne to W. S. Wilson, both employees of the Mercantile Trust Company. Apparently this stock was held for distribution under the reorganization plan of the Wheeling & Lake Erie. On April 15, 1905, Wilson transferred this stock to H. B. Henson, secretary of the Terminal.

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64,238 shares.

## TRAFFIC AND TRACKAGE CONTRACTS.

*Carnegie contract.*—The contract between the Carnegie Steel Company, the Union Railroad and the syndicate, referred to in the syndicate's proposal to the Terminal, provided, in substance, that the syndicate should construct or purchase a line of railroad; that the proposed railroad should connect with the Wabash at Toledo; that there should be secured a traffic or trackage arrangement, or both, with the Wabash from Toledo to Chicago; that the Union Railroad should transport cars of the syndicate lines to the works, plants, and tracks of the Carnegie Steel Company, and the charge therefor should be agreed upon with a minimum of 10 cents per ton; and, that the Carnegie Steel Company should give to the syndicate lines one-fourth of all the tonnage it controlled, when such tonnage was destined to or came from points within and west and south of "central traffic association" territory, but there was to be "deducted from the total tonnage, before computing said one-fourth, freight transported by water, freight routed by consignees, and ores, coal, coke, and limestone, to the works of said Carnegie Company over railways owned, controlled, or leased by said Carnegie Company." The contract was to remain in force for 20 years from February 4, 1901.

*The traffic and trackage contract.*—On October 10, 1902, the Wabash, the Wheeling, and the Pittsburgh, Carnegie & Western Railroad Company, one of the constituents of the Terminal, entered into a traffic and trackage contract. This contract provided, in substance, for the interchange of traffic, through train service, through rates and divisions, and the routing of traffic to the mutual benefit of the parties at interest. It also provided, in the event any dispute should arise with respect to the interchange of traffic, that each of the parties could operate its trains over the rails of the other party or parties. Mr. Ramsey testified in the foreclosure proceedings of the Wheeling as follows:

A. I drew up the original traffic contract, and then went over it with Colonel Blodgett, who was counsel for the Wabash road, and he put it in legal form.

Q. Was it not the intention, and in fact does this contract, in your opinion as a railroad man, effectually bind up these three lines as one operating system?

A. Yes, it did bind them in a solid operating system, so long as they operated the trains jointly, and when they ceased to operate jointly, they still had the right to use those tracks.

A. The intention was to protect to either of the companies the right to run its own trains, regardless of what happened to the other companies, independently or as one system. They were at that time three independent systems, and if they remained independent, and the stock passed into Tom, Dick, and Harry's control, either might be cut off absolutely; and the \$25,000,000 or \$30,000,000 invested would have been worthless. It was to prevent that occurring in the future that this contract was entered into.

The contract provided that, in fixing rate divisions, the Pittsburgh, Carnegie & Western, later the Terminal, would be allowed

an arbitrary mileage of not less than 100 miles, instead of its actual mileage of about 60 miles. The contract was to continue in force for 20 years from the date of commencement of operations.

After the contract was made, the syndicate proceeded to build the Terminal property at great expense. The syndicate's subscribers would not accept the Terminal bonds and accordingly, in order to finance the Terminal, a supplemental traffic and trackage contract was executed. With respect to this supplemental contract, dated May 10, 1904, Ramsey further testified:

A. The syndicate subscribers, as represented by Mr. Herrick, Mr. Connor, and Mr. Sanders, declined to accept simply the plain bonds of the Wabash-Pittsburgh Terminal Railway Company just as they stood, without some sort of guaranty. They first wanted the Wabash guaranty.

A. Yes, Mr. Herrick, Connor, and others. And that could not be done, or was not agreed to; and then this supplemental contract was drawn up and afterwards acted upon by the various companies; in the nature of a compromise guaranty, you might call it. It was to give the guaranty of the Wabash and the Wheeling & Lake Erie of 25 per cent of the gross earnings from traffic over these roads, in either direction, to or from the Wabash-Pittsburgh Terminal, in the event of that being necessary to meet fixed charges or make up a deficit of the Wabash-Pittsburgh Terminal. That was the object of this supplemental contract, based on the underlying agreement.

A. The Wabash road, for instance, if it received \$2,000,000 per year in gross revenues from traffic to and from the Pittsburgh terminal, was to pay to the Wabash-Pittsburgh Terminal, in the event of its being necessary to make good a deficit on fixed charges (of the Terminal) 25 per cent of the earnings, leaving 75 per cent to the Wabash Railroad, which was estimated would meet all its (Wabash) expenses in handling the traffic, and leave a little over. If it (Terminal) did not need the money, it (Wabash) did not pay the 25 per cent, or 25 cents even, therefore it (Wabash) assumed no obligation; this money came to it (Wabash) from the traffic produced by the Wabash-Pittsburgh Terminal. Does that explain it? And the same about the Wheeling.

Q. Was it not represented and insisted upon on the part of certain of the syndicate conferees that the Wabash-Pittsburgh Terminal Railway Company would or might be unable to pay the interest on the contemplated bonds, if such agreement were not entered into?

A. They so expressed themselves, and that they would have no standing in the market—the bonds would not—without some guaranty.

Q. As a railroad man, familiar with railroad financing or finance, was that your judgment and opinion, and did you not so express it?

A. I, as a railroad man, familiar with operations and what its earnings might be—I did not believe that for the first four or five years it could earn fixed charges on its own account, and it would be necessary to have it aided in some way, by lines back of it or by this guaranty, to make both ends meet. Sixty miles of road with \$30,000,000 or \$35,000,000 of bonds would have a pretty big burden to carry.

The supplemental contract also provided for the extension of the original traffic and trackage contract so as to make its duration 50 years instead of 20 years.

The cancellation of this traffic and trackage contract is discussed on page 137.

## PHYSICAL CHARACTERISTICS.

The main line of the Terminal, approximately 60 miles in length, extends from a point at Liberty avenue and Ferry street, in the city of Pittsburgh, in a westerly direction through the foothills of the Appalachian Range, to Pittsburgh Junction, Ohio, where it connects with the Wheeling. Over its entire length it crosses a rugged, hilly country. The road does not follow any large streams and the small streams which it parallels in places for a few miles are very crooked and the valleys are narrow, with high steep slopes. With few exceptions the cuts are through shale rock of a disintegrating character.

It was practically impossible to follow the Ohio River from Pittsburgh in order to avoid heavy cross-country construction because all available locations had already been taken and were occupied by existing railroads; and, in addition, the valley had become so thickly built up into suburban residence sections and large manufacturing centers that the cost for right of way would probably have greatly exceeded the construction cost on the location adopted.

Except for the first 4 miles, practically all within the city of Pittsburgh, the maximum curvature is 3 degrees and the maximum grade seven-tenths per cent compensated for curvature. The Pan Handle, which is practically parallel, has frequent 1 per cent gradients and curvature up to 8 degrees. If corresponding gradients and curvature had been used on the Terminal the cost outside of Pittsburgh would probably have been reduced by at least one-half. The plans, however, provided for the lightest practicable gradient and curvature.

Because of the low maximum established for gradient and curvature through the country traversed, it was necessary to erect many long and high bridges, bore numerous tunnels and make extremely heavy cuts and embankments.

A large amount of engineering work entailing considerable expense was carried on not only before but during the construction period. Surveys for many branch lines for the purpose of making connections with various manufacturing and other industries were made and, in a few instances, some right of way was purchased preparatory to starting construction. Several such projects were necessarily abandoned as a result of the acquisition in September, 1904, of the West Side Belt, which provided certain desired facilities. Others were abandoned because of changes in the general plan, and for other reasons.

On account of the prevalence of coal mines along the line of the railway and the fact that the coal had been removed from considerable areas at various points along the right of way, allowing the surface to settle, it was necessary to go to much additional expense for

masonry foundations. The most serious difficulty of this kind was encountered in Greentree tunnel, nearly 1 mile in length, which passed under old mine workings near its eastern end, through a coal vein near the middle, and over abandoned coal workings near the western end. In one case the ground broke through from the coal mine overhead into the tunnel, and in another case the bottom of the tunnel broke through into the lower workings, so that much expense was incurred that otherwise would not have been necessary.

The construction of the double-track roadbed, including tunnels, approaches, and bridges, involved the excavation, transportation, and deposit in place of approximately nine and a half million cubic yards of material, a large proportion of which was solid rock and shale.

Eighteen double-track tunnels, having an aggregate length of 20,545 feet, were driven. One of these, called "Bigham tunnel," about 250 feet in length, was afterwards eliminated and changed to an open cut. The construction of the tunnels involved the following quantities:

Tunnel excavation.....	642, 000 cubic yards.
Timber lining.....	17, 000, 000 feet B. M. Y. P.
Masonry lining.....	90, 000 cubic yards.

The longest tunnel, "Greentree," just outside the city limits of Pittsburgh, is 4,716 feet in length; the shortest tunnel, located just east of the Ohio River, is 270 feet in length.

There were constructed on the line 68 double-track steel bridges having an aggregate length of 13,498 feet. The greatest continuous length of steel structure is about one-half mile. Twenty masonry bridges, principally concrete, aggregating 610 feet in length, were constructed.

The most notable steel structures are two cantilever bridges, one crossing the Monongahela River at Pittsburgh and the other crossing the Ohio River at Mingo. The Monongahela River bridge, including elevated approaches and the elevated structure extending under the train shed in Pittsburgh, has a length of 2,563 feet. The Ohio River bridge, including elevated approach on the Ohio side of the river, is 1,644 feet in length. The foundations for both of these bridges were carried down to bedrock.

There are 13 other steel structures running from 200 to 800 feet in length and from 60 to 130 feet in height. There are 9 such structures running from 100 to 200 feet in length and of various heights up to about 75 feet.

It should be kept in mind that the entire roadbed construction, including cuts, embankments, tunnels, and bridges, was built for two standard-gauge tracks, although up to June 30, 1916, only 4.1 miles of second track had been laid.

Actual construction work was begun in August, 1901. The roadbed between Pittsburgh and the Ohio River was ready for track laying and was taken over from the grading contractors during the last week in May, 1904. West of the Ohio River the grading was completed about September 1, 1904.

After the organization of the Terminal a portion of the Thompson's Run branch was built, the location of which was subsequently revised so as to effect a connection between the Union Railroad at Thompson Run and the West Side Belt at Longview. There were also constructed those portions of the Allegheny and Duquesne branches extending from the main line near Second avenue to Duquesne way in Pittsburgh. These extensions were made under a revised plan which contemplated the simultaneous erection in connection therewith of the Pittsburgh freight station. The Pittsburgh freight station was not put into service until February 1, 1906.

The main line of the carrier in Pittsburgh, between the eastern portal of Mount Washington tunnel and its passenger station building at Liberty avenue, is elevated about 40 feet above street level. The real estate between this portal and Liberty avenue, occupied by the main line in approaching the passenger station, the Wabash building, freight station, and warehouses, cost \$2,150,337.95.

The portion of the Allegheny and the Duquesne branches actually built under the revised plan runs parallel to the main line between First and Fourth avenues along the roof of the freight station and then turns off as an elevated structure crossing Fourth, Liberty, and Penn avenues, terminating at the building line of Duquesne way in a stub end, approximately the same elevation above street level as the main line. That portion of the branch between Liberty avenue and Duquesne way is used as a switch track to reach the freight station.

The carrier's investment in buildings and structures in Pittsburgh includes the Wabash building containing a passenger station and seven floors of office space and the passenger-train shed and approaches; a freight station building of four floors, two of which are given over to storage of freight; the Ferry street warehouses, built under the approach to the passenger station; and the Cudahy warehouse adjoining the Wabash building. The office space in the Wabash building not occupied by the carrier is rented. The warehouses not used by the carrier are also rented.

The main freight terminal in Pittsburgh is the four-story freight station, above referred to, into which the tracks enter at the elevation of the upper floor, making it necessary to raise or lower, by elevators, all freight handled at this terminal.

The only tracks which the Terminal has on the ground level in Pittsburgh are located on the south side; to reach these tracks the

Terminal is dependent upon the Pittsburgh & Lake Erie for a switching service.

Property was purchased in Allegheny for the approach to the north end of the proposed bridge at a cost of \$45,422.88, and for freight yards and terminals at a cost of \$56,615.08. Part of the latter property was sold for \$39,500, or an excess of \$5,691.09 over its cost. Respecting the failure to construct a bridge across the Allegheny River, P. K. Soffel, real estate agent of the Terminal, testified in the Terminal's foreclosure proceedings as follows:

Q. Will you state, if you know from your connection with the present railway company or its constituent companies, the reasons why this Allegheny City branch was not constructed?

A. Because it was impossible to cross the Allegheny River at the elevation fixed by the War Department and to connect the line with Duquesne viaduct.

Q. That is, the Allegheny River, being a navigable stream, it was necessary to obtain the consent of the War Department before a bridge could be constructed?

A. Yes, sir.

Q. And the requirements of the War Department were such that it was impossible for you, as an engineering proposition, to make connection with your proposed line?

A. Yes.

Q. And therefore the scheme was abandoned?

A. Yes.

On February 4, 1903, the city of Pittsburgh granted the Pittsburgh, Carnegie & Western Railroad Company a franchise to construct, maintain, and operate a double-track railroad between the city line and Liberty avenue, thence to Duquesne way now occupied by the carrier, and also between points previously described as the adopted locations of the carrier's Saw Mill Run and south side branches.

After the acquisition of the stock of the coal company, carrying with it control of the West Side Belt, the construction of the Saw Mill Run branch was no longer necessary, as the proposed line of this branch was parallel to the line of the West Side Belt. Work was done on the south side branch, until an ordinance was enacted authorizing the widening of Carson street. Plans for the elevated structure along Carson street, provided for in the franchise, were revised to conform with the new ordinance, but an injunction, sought by the Pittsburgh & Lake Erie Railroad Company, as an abutting property owner, and other difficulties, led ultimately to the abandonment of the construction of the proposed branch.

Negotiations were then opened with the Pittsburgh & Lake Erie Railroad resulting in a contract being executed on November 28, 1906, providing for the handling of cars for the Terminal between a point of connection with the West Side Belt at west end, Pittsburgh, and

the proposed freight yards originally intended to be reached by the south side branch; also for the sale of property on the south side to the Pittsburgh & Lake Erie and the withdrawal by the Terminal of condemnation suits brought for the purpose of obtaining property for the south side yards, which the carrier had been unable to purchase.

The contract provided that an annual rental of \$22,500 should be paid to the Pittsburgh & Lake Erie by the Terminal for handling the latter's cars, and in addition thereto a charge of 25 cents for each car handled, loaded or empty, in either direction. The price of the property sold was determined, apparently, by using a rate per foot which approximated original cost, plus 4 per cent for interest during the period the Terminal held the property. The amount thus arrived at was \$522,803.24.

The original cost of the property purchased on the south side for use in connection with the south side branch and the south side freight yards was \$1,383,828.22. Team tracks were laid on part of the south side property not sold to the Pittsburgh & Lake Erie, and these tracks have since been used for the receipt and delivery of car-load freight.

On March 8, 1904, the city of Pittsburgh granted the Pittsburgh, Carnegie & Western Railroad Company a franchise to construct, maintain, and operate a double-track railroad along Duquesne way as provided for by the carrier in the adopted location for its Duquesne branch. This branch, however, was not completed.

Some of the boroughs along the line of the Terminal passed ordinances vacating streets, granting rights to construct overhead crossings, etc. Such ordinances, however, are few in number and unimportant as to privileges granted.

The Terminal connects at Pittsburgh Junction and at Mingo Junction with the Wheeling; at George, Pa., with the Montour Railroad; at Bridgeville, Pa., with the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad; and at West Belt Junction with the West Side Belt. The connection with the Pittsburgh, Cincinnati, Chicago & St. Louis at Bridgeville, Pa., was installed in September, 1915. Prior to September, 1904, there had been a connection between the West Side Belt, acquired by the Terminal in September, 1904, and the Pittsburgh, Cincinnati, Chicago & St. Louis near the west end, Pittsburgh. When the Wabash, through the Terminal, acquired control of the West Side Belt, this connection was torn up in order to prevent the Wabash from securing an entrance into Pittsburgh.

The mileage operated by the Terminal on June 30, 1916, was as follows:

	Miles of track.	Miles of second main track.	Miles of yard, track, and sidings, etc.	Total
Main line owned: Pittsburgh, Pa. to Pittsburgh Junction, Ohio.....	59.82	4.13	37.48	101.43
Branch line owned: Longview, Pa., to Mifflin, Pa.....	3.49	.....	1.28	4.77
Operated under trackage rights: West end to south side, Pittsburgh.....	.....	.....	1.73	1.73
Various mine and industrial sidings.....	.....	.....	8.20	8.20
Total.....	63.31	4.13	48.69	116.13

The equipment owned by the Terminal is referred to on page 135.

INFLATION IN COST OF CONSTRUCTION.

In order to determine the actual amount of cash expended for road and equipment, all vouchers and other evidences of expenditures, charged by the carrier or its predecessor companies to road and equipment accounts, were examined, reclassified, and summarized. All other debits and credits to road and equipment accounts were treated in the same manner, resulting in a restatement of these accounts and also of the carriers' income and balance sheet accounts.

The records of the predecessor companies of the Terminal show that the syndicate advanced to them between the early part of 1901 and May 10, 1904, \$15,873,000. An examination of the vouchers and other evidences of expenditures made during this period shows that \$15,761,530.86 was actually spent for construction purposes.<sup>1</sup> The difference between these two amounts, \$111,469.14, is arrived at as follows:

	Debit.	Credit.
Contractors:		
Retained percentages.....	.....	<sup>2</sup> \$1,157,135.51
Advances.....	<sup>2</sup> \$1,011,575.24	.....
Open accounts:		
Miscellaneous.....	<sup>3</sup> 2,770.81	( <sup>4</sup> )
Green County R. R.....	<sup>5</sup> 34,267.49	( <sup>6</sup> )
Texas-California Construction Co.....	<sup>6</sup> 85,000.00	( <sup>7</sup> )
Cash to Terminal.....	112,989.11	.....
Political contributions.....	77,500.00	.....
J. W. Patterson, in account with Pittsburgh-Toledo syndicate:		
Due J. Ramsey, jr.....	.....	<sup>2</sup> 5,000.00
Due J. W. Patterson.....	.....	<sup>2</sup> 500.00
Balance.....	1,274,102.65 111,469.14	1,162,633.51

<sup>1</sup> See Appendix 1.  
<sup>2</sup> Not transferred to account of Terminal.  
<sup>3</sup> Transferred to account of Terminal in entry of \$1,048,613.54. See page 119.  
<sup>4</sup> Later canceled.  
<sup>5</sup> Paid.  
<sup>6</sup> Transferred to account of Terminal in entry of \$35,000. See page 119.  
<sup>7</sup> Unpaid Aug. 1, 1916.

From the foregoing the following condensed statement of account as of May 10, 1904, can be made:

Advanced by Pittsburgh-Toledo syndicate.....	\$15, 873, 000. 00	
Investment in road and equipment.....	\$15, 761, 530. 86	
Current assets and unadjusted debit accounts. ....	1, 274, 102. 65	
Current liabilities and unadjusted credit accounts.....		1, 162, 633. 51
	<hr/>	<hr/>
	17, 035, 633. 51	17, 035, 633. 51

The opening entries on the books of the Terminal were not based upon the above figures. If they had been, the item of \$15,873,000 would have been offset by the aggregate of the securities issued, \$50,000,000, and the difference between these items, \$34,127,000, would have been carried as discount on securities issued. The amount of this discount would have been subsequently reduced by the following:

Cash received from syndicate.....	\$3, 521, 195. 73	
May, 1904.....	\$704, 000. 00	
June, 1904.....	2, 065, 506. 05	
July, 1904.....	5, 283. 33	
October, 1904.....	746, 406. 35	
	<hr/>	
Wheeling & Lake Erie R. R. stock.....	6, 000, 000. 00	
Sale of second mortgage bonds.....	27, 186. 25	
Second mortgage bonds held by treasurer (par value).....	7, 000. 00	
	<hr/>	
Total .....	9, 555, 381. 98	

leaving a net inflation in the original capitalization of \$24,571,618.02. This assumes, of course, that the book value of \$6,000,000 placed on the stock of the Wheeling & Lake Erie Railroad represents actual cost. On page 128 reference is made to the sale of second mortgage bonds turned over to the Terminal by the syndicate, for \$27,186.25, and to the fact that \$7,000 of these bonds are still held by the Terminal.<sup>1</sup>

<sup>1</sup> Strictly the par value, \$257,000, of the second mortgage bonds returned should be deducted and the difference between \$250,000 and \$27,186.25, or \$222,813.75, be considered as discount on second mortgage bonds. This method would decrease the original discount, \$222,813.75, and increase the subsequent discount an equal amount. Obviously no change would ultimately be made in the total discount. The treatment above is followed because it conforms to the carrier's records.

The books of the Terminal show the following entries in the cost of road account:

	Debit.	Credit.
Capital stock.....	\$4,000,000.00	.....
First mortgage bonds.....	20,000,000.00	.....
Second mortgage bonds.....	20,000,000.00	.....
Open accounts.....		\$1,048,613.54
Advances to contractors.....	\$1,011,575.24	
Miscellaneous.....	2,770.81	
Green County Railroad.....	34,267.49	
Texas & California Construction Co.....		35,000.00
Cash from Pittsburgh-Toledo Syndicate:		
Transferred from Pittsburgh, Carnegie & Western Railroad	\$112,989.11	
May, 1904.....	704,000.00	
June, 1904.....	2,065,506.05	
August, 1904.....	5,283.33	
October, 1904.....	746,406.35	
		3,634,184.84
Sale of second mortgage bonds.....		27,186.25
	44,000,000.00	4,744,984.63
Balance.....	39,255,015.37	.....

If the debit balance in the Terminal's road and equipment account on May 10, 1904, had reflected only the actual amount of cash expended for construction to that date it would have been \$15,761,530.86. This amount includes \$1,157,133.51, representing retained percentages due contractors, which was not entered on the books of the Terminal. Obviously the latter amount must be added to the difference between \$39,255,015.37 and \$15,761,530.86 in order to obtain the inflation in the carrier's property account as of May 10, 1904, according to its own records. The difference thus obtained is \$24,650,618.02. This amount differs with the final net inflation referred to above as \$24,571,618.02, by \$79,000, and is accounted for by the three following items:

	Debit.	Credit.
Second mortgage bonds in the treasury.....	\$7,000	.....
Liability for advances made:		
J. Ramsey, jr.....	\$5,000	
J. W. Patterson.....	500	
		\$5,500
Political contributions to May, 1904.....	77,500	.....
	84,500	5,500
Net difference.....	79,000	.....

The political contributions were made between October, 1902, and February, 1904, to politicians in Pittsburgh, two receiving \$30,000 each and another \$17,500. An additional \$10,000 was contributed in February, 1905, to one who had previously received \$30,000.

Reference has previously been made to an unpaid item carried forward from the old accounts under the title of "Texas & California Construction Company," \$35,000. It appears that this amount

represents advances made in the early history of the Terminal to the construction company.

The cost of road and equipment was further inflated by an arbitrary charge of \$1,771,757.64, made on June 30, 1906, representing the debit balance, as of that date, in the profit and loss account. This balance did not represent any addition or betterment to the carrier's physical property. Obviously, in a restatement of the cost of road and equipment account, this amount should be restored to the debit of profit and loss.

In Appendix 1 will be found a detailed statement showing, by companies, the amount actually spent to May 10, 1904, in the construction of the properties of the several companies which, on or about that date, were merged into the Terminal.

Appendix 2 shows the carrier's investment in road and equipment as of June 30, October 31, and November 30, 1904, June 30, 1905, June 30, 1906, June 30, 1907, May 28, 1908, when the receiver was appointed, and March 31, 1916 (excluding expenditures by receivers). In Appendix 6 it is shown that the receivers expended \$2,448,668.81 for additions to property, making a total of \$27,610,352.68 actually expended for road and equipment to March 31, 1916; on the same date the carrier had outstanding securities, including receiver's certificates and mortgages, aggregating \$63,420,097.67.

#### CHARACTER AND EXTENT OF SERVICE.

The Terminal has no direct connection with any large industries other than the mining operations, of which there are a dozen or more, located on its line in the vicinity of Pittsburgh. However, the branch connecting the West Side Belt and the Union Railroad furnishes connections with a number of industries located on the line of the latter company.

The Terminal's traffic consists almost entirely of through carload shipments. The amount of local traffic is negligible. The bulk of the traffic consists of coal and ore. In 1916 coal and ore comprised almost 82 per cent, while in 1915 it exceeded 85 per cent, of the total tonnage. The amount of general freight has, however, recently increased materially.

Owing to the Terminal's entrance into Pittsburgh at an elevation, the handling of traffic is difficult and expensive and the company is further handicapped by inadequate trackage facilities. It is estimated that about 25 per cent of the traffic, exclusive of coal and ore, is handled through its elevated terminal in Pittsburgh, which can accommodate approximately 40 cars, spotted. The Terminal would undoubtedly secure a larger share of the traffic of the Pittsburgh district if it were not for these operating disabilities.

In the opinion of its general manager, the Terminal could handle about three times the amount of its present traffic without requiring double tracking.

The passenger business of the Terminal is entirely local, only two trains running each way daily over the entire length of the main line. From Pittsburgh west, for a distance of about 30 miles, there are three trains each way daily, and for a distance of about 20 miles, six trains run daily in each direction.

The following statement of tonnage handled, compiled from the carrier's annual reports to the Commission, will indicate the nature and extent of the carrier's freight business:

<sup>1</sup> Includes unclassified and less than carload.

#### SALE OF BONDS.

In addition to the \$20,000,000 of first mortgage and \$20,000,000 of second mortgage bonds given to the syndicate as part consideration for the Terminal properties, there were issued, subsequent to May 10, 1904, \$10,236,000 of first mortgage bonds. For this latter amount of bonds there was received in cash \$8,309,382.87; the difference of \$1,926,617.13 between the par value and the proceeds represents brokerage charges and discount. To this should be added \$72,572.02 for other expenses incident to the issuance of these bonds and the \$40,000,000 of first and second mortgage bonds previously issued to the syndicate, making a total of \$1,999,189.15 expenses, commission, and discount suffered subsequent to May 10, 1904.

Vermilye & Company and Blair & Company purchased \$5,000,000 of the bonds during the months of October, November, and December, 1904, at prices ranging from 82 to 84; Blair & Company purchased \$2,000,000 of the bonds in May, 1905, at 86 net; William A. Read & Company, through G. P. Butler & Brother, purchased \$2,000,000 of bonds in February and March, 1906, at 87½; Frank J. Gould purchased \$500,000 of bonds in July, 1906, at 80 net; \$73,000 of the bonds were sold during January and May, 1908, at prices

ranging from 49½ to 58½, and \$663,000 of bonds given as collateral for a note were sold at auction by the trustee in June, 1909, at an average rate of 39.93 per cent.

A statement of the first mortgage bonds of the Terminal, sold subsequent to May 10, 1904, showing dates of sale, to whom sold, and prices received, is contained in Appendix 7.

W. A. Read, of W. A. Read & Company, formerly a member of the firm of Vermilye & Company, testified in the foreclosure proceeding of the Wheeling that Vermilye & Company and Blair & Company were managers for a syndicate formed for the purpose of purchasing Terminal first mortgage bonds. He testified that Vermilye & Company and Blair & Company, as managers of the syndicate, purchased bonds between October 12, 1904, and December 23, 1904, as follows:

From Wabash Pittsburgh Terminal Ry. Co., at 85 and less..	\$5, 000, 000
From Pittsburgh-Toledo syndicate members, at 85 .....	3, 238, 700
From Pittsburgh-Toledo syndicate members, at 86-90 .....	3, 231, 250
In open market.....	1, 885, 000
Total.....	13, 354, 950

These bonds were sold during the same period by the following syndicate members:

Blair & Company.....	\$3, 076, 000
Verner & Company.....	628, 000
Thomas Branch & Co.....	50, 000
Harvey Fisk & Sons.....	569, 000
George P. Butler & Bro.....	2, 750, 000
J. D. Everett & Co.....	5, 000
Simon Berg & Company.....	175, 000
Vermilye & Company.....	6, 061, 950
Bank of New York.....	40, 000
Total.....	13, 354, 950

The syndicate records indicate that these bonds were sold at prices ranging from 86 to 91½, to—

Savings banks.....	\$78, 000
Insurance companies.....	1, 665, 000
Brokers (syndicate members).....	8, 682, 000
Individuals, banks, etc.....	2, 929, 950
Total.....	13, 354, 950

It is impossible at this time to ascertain the total amount of first mortgage bonds which were eventually sold through brokers to savings banks and insurance companies. The records of bonds deposited soon after the receivership in 1908 show, however, that savings banks deposited \$410,000 and insurance companies \$3,989,000 first mortgage bonds. Changes in ownership no doubt occurred between the

date of the original deposits and the date of the final cash payment under the reorganization plan. Presumably some of the banks and insurance companies did not pay the cash required for the reorganization committee's records indicate that in March, 1917, savings banks which had made the final cash payment held \$189,000 and insurance companies \$3,086,000 of first mortgage bonds.

Circulars issued by banking firms offering the bonds for sale were introduced in evidence in the Wheeling foreclosure proceeding, but they do not form part of the printed record and therefore can not be reproduced here. However, circular letters issued by Vermilye & Company and W. A. Read & Company, the only copies now obtainable, which are probably typical of the others, appear in Appendices 19 and 20. A copy of the Terminal's application to list its bonds on the New York Stock Exchange is contained in Appendix 21.

A reliable financial publication <sup>1</sup> gives the range of prices at which Terminal first mortgage bonds sold in the open market during the years 1905 to 1916, inclusive, as follows:

	Low.	High.		Low.	High.
1905.....	86	95½	1911.....	40½	49½
1906.....	78½	90½	1912.....	20	39½
1907.....	53	80	1913.....	11½	26½
1908.....	41	56	1914.....	7½	12
1909.....	43	55½	1915.....	1	8½
1910.....	33	52½	1916.....	½	4½

PURCHASE OF COAL STOCK AND BONDS.

At a special meeting of the board of directors held in New York City on September 9, 1904, the officers of the Terminal were authorized to execute an agreement between the company and Charles Donnelly and F. F. Nicola for the purchase of certain shares of the capital stock of the coal company.

This agreement provided that 70,100 shares should be purchased at \$22.50 per share, with the option of purchasing the remaining 69,900 shares before November 1, 1904, at the same price per share. It was also provided that \$500,000 in cash was to be paid on signing the agreement and \$1,077,250 on October 1, 1904.

It was stated in the agreement that the coal company had an authorized bond issue of \$7,000,000, secured by a mortgage upon its property; and that \$4,310,000 of these bonds had been sold. Of the remainder, \$2,690,000, the following is related:

- \$1, 111, 000 reserved to take up \$1,108,808.94 in real estate mortgages of the company as they become due;
- 383, 000 reserved to take up the bonds of the West Side Belt R. R., which had been sold out of an authorized issue of \$1,000,000;

<sup>1</sup> The Financial Review.

\* \$617,000 reserved to take up the bonds of the West Side Belt Railroad which remained unsold, but of which \$610,000 were deposited as collateral for loans, the aggregate of which is shown in the item immediately following;  
509,000 deposited as collateral, along with \$610,000 bonds of the West Side Belt, for loans aggregating \$936,800;  
55,000 deposited as collateral on loans (Mr. H. B. Henson produced statement in evidence in Terminal foreclosure proceedings showing that \$564,000 par value of bonds were used as collateral on September 30, 1904, leaving \$15,000 free in treasury); and  
15,000 free in treasury.

The transfer of the 70,100 shares of the stock carried with it control of the coal company, which, in turn, controlled the following-named corporations through stock ownership:

West Side Belt R. R. (21,300 shares out of 21,600 shares);  
The Pittsburgh Terminal Clay Manufacturing Company;  
The Pittsburgh Terminal Land Company;  
The Mutual Supply Company;  
The Pittsburgh & State Line Railway Company; and  
The State Line Connecting Railway Company.

The West Side Belt stock was deposited with the trustee of the coal company's bonds as provided in the mortgage securing those bonds.

The first four companies enumerated above are subsidiaries of the coal company, and the fifth and sixth companies, merely "paper roads," are subsidiaries of the West Side Belt. The subsidiary companies are referred to further under the history of the holding companies.

The provision in the agreement to purchase the stock of the coal company, to the effect that \$500,000 be paid in cash when the agreement was made and the balance, \$1,077,250, on October 1, 1904, was carried out as agreed upon. The records and Henson's testimony both show that the \$500,000 was paid by check on September 9, 1904, and that the amount was drawn from funds received from the syndicate. The balance was paid by borrowing \$1,077,250 from the Mercantile Trust Company, as authorized at a meeting of the board of directors held on September 30, 1904. The board authorized the deposit as collateral for this loan \$1,000,000 of first mortgage bonds and the 70,100 shares of the stock of the coal company. The loan was paid on October 12, 1904, partly, if not entirely, from the proceeds of the sale of \$3,000,000 par value of first mortgage bonds. The treasurer in New York had a cash balance of \$52,022.96 on October 1, 1904. The cash receipts prior to that time had come only from the syndicate. Between October 1 and 12, inclusive, the treasurer received \$415,500 from the syndicate, \$4,134.07 interest on bank deposits, and \$2,460,000 from the sale of bonds.

The remaining 69,900 shares of coal company stock were purchased on November 1, 1904, at \$22.50 per share, or at an aggregate cost of \$1,572,750. This amount was paid out of the general funds of the carrier on deposit in New York, supplemented by a loan from the Mercantile Trust Company of \$700,000 at 5 per cent, made on November 1, 1904, and approved by the board of directors at its meeting on November 9, 1904. During the month of October, 1904, the carrier received \$746,406.35 from the syndicate, \$2,460,000 from the sale of bonds, \$12,000 from the payment of a note receivable, \$4,134.07 from interest on bank balances, and had a cash balance on November 1, 1904, of \$1,188,730.93. It seems impossible, therefore, to say from what specific receipts the payment of \$1,572,750 was made. The note for \$700,000, secured by \$1,500,000 of Terminal first mortgage bonds, was paid November 23, 1904, from the proceeds of the sale of \$1,000,000 of these bonds.<sup>1</sup>

The capital stock of the coal company was carried on the books of the Terminal at \$3,159,740.13. The cost of this stock at \$22.50 per share is \$3,150,000. The difference, \$9,740.13, represents interest on the note of \$1,077,250. This note was to mature in six months but could be paid prior to maturity. It was agreed that if the note was paid before maturity, the rate of interest should be 6 per cent from date of the note to date of payment, and 1½ per cent from date of payment to date of maturity. The interest is, therefore, computed as follows:

Interest, 12 days, at 6 per cent, Oct. 1, 1904, to Oct. 12, 1904.....	\$2, 154. 50
Interest, 169 days, at 1½ per cent, Oct. 12, 1904, to Mar. 31, 1905.....	7, 585. 63
Total.....	9, 740. 13

The interest on the note for \$700,000 was charged to income, together with the legal and other expenses incident to the acquisition of the stock.

At a directors' meeting on May 24, 1905, it was resolved that the Terminal should purchase from the coal company \$3,800,000 of the latter company's bonds for \$3,500,000. These bonds were purchased and deposited with the Wabash as collateral for the Terminal's note for \$3,500,000, given in payment for the bonds and indorsed over to the Wabash by the coal company, which received cash for its face value.

#### SYNDICATE TRANSACTIONS.

The syndicate's proposal, referred to on page 99, to call the unpaid portion of the syndicate subscription and to pay same to the Terminal was not, apparently, fully carried out. In the Terminal's foreclosure

<sup>1</sup> Letter from H. B. Henson, November 23, 1904, introduced in evidence in the Terminal receivership proceedings.

proceedings B. W. Jones, assistant treasurer of the Mercantile Trust Company, testified that the seventh call for payment of subscriptions was made payable January 25, 1904, the calls to that date aggregating 70 per cent, and that the eighth and final call was made payable June 6, 1904, for 30 per cent, or \$6,000,000. According to the Mercantile Trust Company's Exhibit No. 57, filed in the record of the same proceedings, there was collected between May 11, 1904, and October 20, 1904, the latest date upon which payments were made, the following:

	Principal.	Interest on deferred payments.	Total.
Applicable to call—			
No. 3.....	\$50,000	\$2,052.78	\$52,052.78
No. 4.....	240,000	3,244.00	243,244.00
No. 5.....	240,000	2,342.83	242,342.83
No. 6.....	367,000	1,916.83	368,916.83
No. 7.....	506,250	31,322.41	537,572.41
Subtotal.....	1,403,250	40,878.85	1,444,128.85
Applicable to call No. 8.....	6,000,000	1,866.92	6,001,866.92
Grand total.....	7,403,250	42,745.77	7,445,995.77

From the above it would seem that the syndicate should have paid the Terminal, in accordance with the proposal just mentioned, \$7,445,995.77. There was actually paid slightly less than half of this amount, as detailed below:

Cash on hand, Pittsburgh, Carnegie & Western Railroad, at time of merger, May 9, 1904.....	\$112,989.11
Advance by syndicate to Pittsburgh, Carnegie & Western Railroad, taken up by the Terminal (Pittsburgh office).....	704,000.00
Payments to treasurer in New York:	
June, 1904.....	2,065,506.05
July, 1904.....	5,283.33
October, 1904.....	746,406.35
Total .....	3,634,184.84

The syndicate did not carry out that part of its agreement wherein it proposed to turn over \$6,000,000 in cash in exchange for \$6,600,000 par value of first mortgage bonds. The bonds were delivered to the Wabash, which paid the syndicate therefor, but the syndicate did not pay this amount to the Terminal. Concerning this matter, John C. Otteson, secretary and assistant treasurer of the Wabash, testified in the Terminal's foreclosure proceedings as follows:

- A. Yes, they (Wabash Railroad Co.) purchased those bonds from the syndicate.
- Q. And at what time?
- A. They were paid for on May 17, 1904.
- Q. How was that payment made?
- A. By check for \$6,000,000, drawn to the order of the Mercantile Trust Company, account Pittsburgh-Toledo syndicate.

In Mercantile Trust Company's Exhibit 58, filed in the same proceedings, it is shown that the \$6,000,000 was received by the Mercantile Trust Company and posted in its ledger No. 16, folio 339, to the credit of the syndicate.

Nothing is said in the syndicate's proposal about the settlement of its outstanding obligations with the moneys received from the calling of the unpaid portion of its subscriptions and from the sale of the \$6,600,000 bonds. It is shown on page 109 of this report that the capital stock of the Wheeling cost the syndicate an amount probably not exceeding \$4,500,000, and on page 117 that the syndicate advanced \$15,873,000, prior to May 10, 1904, for construction purposes. Subsequent to May 10, 1904, as shown above, there was paid to the Terminal by the syndicate \$3,521,195.73, making a total cash outlay by the syndicate of \$19,394,195.73. This total of \$19,394,195.73 does not include the cost to the syndicate of the capital stock of the Wheeling, and so it would appear that some of the moneys received by it after May 10, 1904, was used to meet its outstanding obligations.

There was filed in the record of the Terminal's foreclosure proceedings, as Exhibit 58, a transcript of the account of the syndicate as it appears in the ledgers of the Mercantile Trust Company, the syndicate's depository. This transcript, supplemented by Exhibit 57, filed in the same proceeding, shows the following:

Debits:

To loan account.....	\$23, 225, 471. 98
To W. P. T. Ry.....	2, 817, 195. 73
To P-T syndicate, M. T. Co., subscriber.....	2, 500. 00
To P-T syndicate expenses.....	63. 06
To exchange.....	15. 00
To cash.....	7, 500. 00
To over collections.....	55, 000. 00
Total .....	26, 107, 745. 77

Credits:

By subscriptions.....	20, 000, 000. 00
By interest from subscribers.....	42, 745. 77
By Wabash R. R.....	6, 000, 000. 00
By over collections.....	55, 000. 00
By no detail.....	10, 000. 00
Total .....	26, 107, 745. 77

A. W. Krech, secretary of the syndicate, testified in the foreclosure proceedings of the Wheeling that the records of the syndicate were lost and that although diligent search had been made they could not be found. The records of the Mercantile Trust Company, it appears, were destroyed by fire some time after the exhibits referred to above were filed. The loss of these records makes impossible the analysis of the "loan account" item shown above. It evidently includes

\$16,577,000 sent to the Pittsburgh office for construction purposes and the cost to the syndicate of the capital stock of the Wheeling.

In September, 1910, a suit was entered in the supreme court, county of New York, New York, by H. W. McMaster and F. H. Skelding, as receivers of the Terminal, against George J. Gould, Joseph Ramsey, jr., Myron T. Herrick, and James Hazen Hyde as managers of the syndicate, asking for an accounting of all transactions had by the defendants as agents and trustees of the Terminal, and, especially, for the disposition of any moneys received by them for account of the Terminal. In the bill of complaint reference is made to the agreement organizing the syndicate and to an agreement supplemental thereto; also, to the plan for financing the syndicate. This suit has not yet come to trial, a postponement having been obtained in June, 1916, on account of the death of counsel for one of the defendants.

The plan for financing the syndicate provided that there was to be reserved by the syndicate \$2,000,000 of second mortgage bonds "for expenses of syndicate, management, etc.," and in the final call of the syndicate it was stated that there was to be distributed to the subscribers of the syndicate, "such balance of the \$2,000,000 of second mortgage bonds reserved in the plan for syndicate expenses as shall remain after meeting those requirements." In the foreclosure proceedings of the Terminal, H. B. Henson, its treasurer, testified as follows:

A. The \$20,000,000 (second mortgage bonds) were issued and delivered to the syndicate. After they had settled their various accounts under the reorganization, and in other matters, they had a surplus of \$257,000 of second mortgage bonds, which they turned over to the company.

A. \$250,000 were subsequently deposited with the Mercantile Trust Company as additional collateral security on their loan of \$465,000.

He further testified that on May 21, 1908, this collateral was sold by the trust company for \$27,186.25, and the proceeds of the sale were applied against the loan. The seven remaining bonds turned over to the company are still in Henson's possession, leaving actually outstanding in the hands of the public prior to the reorganization of the Terminal \$19,993,000 of second mortgage bonds.

#### NOTE TRANSACTIONS.

A statement of the notes receivable and payable is contained in Appendix 8.

The only note receivable outstanding when the examination of the accounts was concluded was one for \$300,000, given to the Terminal by the Wheeling on May 31, 1907, as part payment for the amount due under the traffic and trackage contract, wherein the Wheeling agreed to pay 25 per cent of its revenue on through traffic

originating or terminating on the Terminal's line. The following notes payable were also outstanding:

Payee.	Date of note.	Amount.
The Wabash Railroad Company .....	May 31, 1905 .....	\$1,500,000
Do.....	do.....	3,500,000
Do.....	do.....	268,000
Do.....	Nov. 30, 1905.....	300,000
Pittsburgh Terminal Railroad & Coal Company.....	Dec. 6, 1905 (balance).....	8,000
The Mercantile Trust Company .....	Nov. 30, 1905 (balance).....	79,074
Total.....	.....	5,655,074

The proceeds from the notes for \$1,077,250 and \$700,000, shown in Appendix 8, were used in the acquisition of the capital stock of the coal company, as fully explained on page 125 of this report. The note for \$50,000 was given to the Wabash on March 31, 1905, in order to secure funds with which to make a loan of the same amount, on the same date, to the Wheeling. The note for \$100,000 to G. J. Gould, on April 30, 1905, and the notes of \$250,000 and \$100,000 to the coal company were given for the purpose of securing funds to meet the pressing obligations of the Terminal. Part payment on the amount of the last two notes was made in the manner described on page 131. The notes for \$465,000 to the Mercantile Trust Company and \$300,000 to the Wabash were given primarily to secure funds with which to meet the interest requirements of the first mortgage bonds. The collateral remaining pledged under the note for \$465,000, shown in Appendix 7 as \$663,000 par value of first mortgage bonds, together with \$250,000 second mortgage bonds, was sold by the Mercantile Trust Company. The proceeds realized from the sale of this collateral were not sufficient to pay the principal of the note, and a balance amounting to \$79,074 remains unpaid.

At a special meeting of the board of directors, held in New York City on May 24, 1905, a resolution was adopted authorizing the borrowing of \$1,500,000 from the Wabash and the giving as security therefor the capital stock of the coal company of the par value of \$14,000,000.

At the same directors' meeting it was also resolved that the Terminal should purchase from the coal company \$3,800,000 of the latter company's consolidated mortgage bonds for \$3,500,000. The Terminal, not having cash with which to make this purchase, gave its 5 per cent demand note to the coal company. The coal company indorsed the note over to the Wabash, receiving cash for its face value—\$3,500,000.

The cashbook in the New York City office of the Terminal shows the receipt on May 31, 1905, of \$1,500,000 from the Wabash on

the carrier's 5 per cent demand note of May 1, 1905, secured by 140,000 shares of the capital stock of the coal company. The "large amount of indebtedness, namely, \$1,500,000," which is referred to in the resolution authorizing the issuance of this note, as "now due and payable and for the payment of which this company has no available funds," is shown by the treasurer's cashbook to have been interest charges on the first mortgage bonds for the period June 1, 1904, to June 1, 1905, amounting to \$1,074,840, and unpaid vouchers and accounts of \$205,800 for the payment of which a remittance was sent to the Pittsburgh office. The treasurer in New York City had a cash balance on May 1, 1905, of \$19,996.38 and on May 31, 1905, after receipt of the \$1,500,000, and less disbursements, of \$320,192.93.

Concerning funds to be furnished by the Wabash to the coal company on the note of the Terminal, the following is quoted:

From Henson's testimony in the Terminal receivership proceedings:

The note for \$3,500,000 as collateral to which \$3,800,000 of the second mortgage (first consolidated mortgage 4½ per cent) bonds of the Pittsburgh Terminal Railroad & Coal Company were pledged, was executed by the Wabash Pittsburgh Terminal Railway Company to the order of the Pittsburgh Terminal Railroad & Coal Company and by that company indorsed.<sup>1</sup>

From the minutes of a meeting of the coal company's executive committee held on June 8, 1905:

The treasurer also reported, for the information of the committee, that the Pittsburgh Terminal Railroad & Coal Company had received from the Wabash Railroad Company the sum of \$3,500,000 on sale of the Wabash Pittsburgh Terminal Railway Company note of May 1, 1905, for like amount, and that steps would be immediately taken to pay off the purchase money mortgage obligations and collateral loans of both the Pittsburgh Terminal Railroad & Coal Company and the West Side Belt Railroad Company in order to secure the release of bonds pledged against same.

From the minutes of meetings of the coal company's executive committee held on June 29, 1905, and August 3, 1905:

That collateral loans of the Pittsburgh Terminal Railroad & Coal Company and the West Side Belt R. R. Company, aggregating \$1,256,378.01, had been paid, together with interest due thereon;

That the sum of \$997,770.58 had been paid to the Colonial Trust Company, trustee, of Pittsburgh, Pa., to provide for the payment of outstanding purchase money mortgages and that the \$996,000 of Pittsburgh Terminal Railroad & Coal Company first mortgage bonds, reserved in the hands of said trust company, had been surrendered on such payment;

That a total of \$2,300,000 (\$1,683,000 plus \$617,000) of said Pittsburgh Terminal Railroad & Coal Company's first mortgage bonds had been delivered to the Bowling Green Trust Company, as trustee of the Pittsburgh Terminal Railroad & Coal Com-

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<sup>1</sup> Reference to copy of original note dated May 1, 1905, does not indicate that the capital stock of the Pittsburgh Terminal Railroad & Coal Company was pledged as additional security for this note as authorized by board of directors.

pany's new mortgage of May 1, 1905, as required to be deposited under the provisions of said mortgage of May 1, 1905.

That all of \$192,203.32 of purchase money mortgages not provided for by deposit of bonds with trustee have been paid except \$3,000, the holder of which mortgage has not been located;

That all of \$382,740.62 of unsecured promissory notes have been paid except \$25,000, maturing from August 14 to 21, 1905;

That payment of \$27,014.65 had been made on August 2, 1905, to Colonial Trust Company, trustee, to adjust to July 1, 1905, sinking fund payments under first mortgage bonds of the Pittsburgh Terminal Railroad & Coal Company; and

That the cash balance with the treasurer in New York City to the credit of the Pittsburgh Terminal Railroad & Coal Company was \$768,615.60.

From the general funds of the coal company, created primarily by the borrowing of \$3,500,000 and represented by the cash balance with the treasurer in New York City, there was subsequently borrowed by the Wheeling \$100,000, which remained unpaid at the conclusion of our investigation; and by the Terminal, \$350,000 in two loans, \$342,000 of which was repaid by offsetting against the loans the interest at 4½ per cent from May 1, 1906, to May 1, 1908, on \$3,800,000 (par) of coal company bonds. The interest on these bonds from May 1, 1905, to May 1, 1906, amounting to \$171,000, and interest amounting to \$107,750, on coupons due January 1, 1906, of the coal company's first mortgage bonds were also paid from these general funds.

At a meeting of the Terminal's executive committee, held May 23, 1907, the following resolution was adopted:

*Resolved*, That Mr. E. T. Jeffery, acting chairman, be, and he is hereby, authorized to negotiate a loan from the Wabash Railroad Company covering the interest requirements of this company maturing June 1, 1907, and to cause to be executed by the proper officers of this company, to the Wabash Railroad Company, this company's 6 per cent demand obligation for such sum as may be so borrowed, indorsing over and pledging therefor the 6 per cent demand note of the Wheeling & Lake Erie Railroad Company to this company for \$300,000, and also pledging all right and equity of this company in the stock of the Pittsburgh Terminal Railroad and Coal Company, which is already the subject of pledge to the said Wabash Railroad Company as security for the note of this company for \$1,500,000 dated May 1, 1905.

The treasurer's cashbook for May 27, 1907, shows the receipt of \$268,000 with the following explanation:

Received from the Wabash Railroad Company on this company's demand note of this date with interest at 6 per cent per annum, secured by W. & L. E. R. R. Co.'s note for \$300,000, and pledge of equity in \$14,000,000 of P. T. R. R. & Coal Co.'s capital stock deposited with the Wabash Railroad Company as security for note of \$1,500,000 of May 1, 1905.

It appears that the Wabash pledged the note for \$1,500,000 and the note for \$3,500,000, with other collateral, as security for a note issue of its own. The following, pertinent to this matter, is quoted from the answer of the Wabash in a suit brought September 12, 48 I. C. C.

1910, by the Mercantile Trust Company, as trustee of the first mortgage bonds of the Terminal, against the Wabash:

That at the time of the application by the terminal company to this defendant for the loan of \$1,500,000, about the month of May, 1905, and at the time of the offer of the coal company to this defendant to sell the aforesaid promissory note of the terminal company for the principal sum of \$3,500,000, this defendant was without funds with which to make such purchase, and for the purpose, among other things, of raising the necessary funds to make such purchase, defendant created an issue of its five-year 4½ per cent gold notes, of which \$10,000,000 par value were authorized and \$7,000,000 par value were issued and sold to various holders thereof for value received, and to secure the payment of such notes this defendant pledged with the Central Trust Company of New York for the benefit of the holders of said notes and as security for the payment thereof, the aforesaid promissory note of the terminal company for \$1,500,000 and the aforesaid promissory note of the terminal company to the coal company and indorsed by the coal company, for the sum of \$3,500,000, together with all of the securities aforesaid pledged for the payment of said notes, and the said notes and all of the securities aforesaid were delivered to and deposited with the said Central Trust Company of New York, as trustee aforesaid, and have ever since remained and now are in the possession of such trustee and held by it. Upon the maturity of said five-year 4½ per cent notes on the 1st of May, 1910, part of the said notes were paid and the remainder, amounting to \$5,000,000 par value, were extended until the 1st day of May, 1913, and the notes aforesaid of the terminal company, together with all the securities pledged for the payment thereof, remained and are still held by the trustee aforesaid as a security for the payment of such extended notes.

The Wabash defaulted in the payment of the principal of these 4½ per cent notes when they became due on May 1, 1913, and the trustee, the Central Trust Company, instituted foreclosure proceedings. Intervening petitions were filed in this proceeding by the Bankers Trust Company and the Equitable Trust Company, as trustees for the bonds of the Terminal, averring that the collateral securing the notes for \$1,500,000 and \$3,500,000 was purchased with funds derived from the sale of the first mortgage bonds of the Terminal and for that reason were subject to the lien of the mortgage securing these bonds. The court finally entered a decree of sale and these Wabash 4½ per cent notes were bought in by the so-called Wabash 4½ per cent note holders' committee, from whom the Terminal's notes and collateral securing same were subsequently purchased by the reorganization committee of the Terminal for approximately \$3,000,000.

#### WASHINGTON COAL COMPANY CONTRACT.

On September 11, 1905, a contract was made between the Terminal and the Washington Coal Company for the construction, by the latter, of a railroad from Pryor station, on the Terminal's line, to a coal mine 3 miles distant, the Terminal agreeing to reimburse the coal company for the cost of construction, which was not to exceed \$75,000, by making an allowance of 15 cents a ton on all coal and other freight transported over the proposed branch. The ownership

of the branch line was to be vested in the Terminal when it had made full reimbursement for its cost. The contract provided for the construction of the proposed branch under the charter of the Pittsburgh & Cross Creek Railroad Company, which was incorporated in Pennsylvania on August 14, 1905, with an authorized capital stock of \$70,000. Certificates of capital stock were to be issued to the Terminal as refunds were made by it to the Washington Coal Company.

The railroad was constructed as agreed and refunds aggregating \$12,487.18 were made up to the time when the property was washed away by a flood. It has not been rebuilt and probably will not be.

#### RESULTS OF OPERATIONS.

It will be noted, by referring to Appendix 3, that the carrier's operations between December 1, 1904, the date determined upon as the date revenue operations began, and May 28, 1908, the date receivers were appointed, resulted in a deficit in net income for each year, amounting in the aggregate to nearly \$3,000,000. During this period the excess of operating revenues over operating expenses and taxes was about \$1,000,000, from which fixed charges of about \$4,000,000 were deducted, creating the deficit of \$3,000,000. If the revenue derived from the so-called traffic and trackage guaranty is excluded, it will be found that the carrier's operating expenses and taxes exceeded its revenues.

By reducing the results of the carrier's operations between May 10, 1904, and May 28, 1908, to a cash basis and using approximate figures for major items only, the following condensed statement can be prepared:

#### RECEIPTS.

Cash from syndicate <sup>1</sup> .....	\$3, 600, 000
Cash from sale of bonds <sup>2</sup> .....	8, 300, 000
Cash from loans unpaid <sup>3</sup> .....	2, 100, 000
Cash from operations and rentals.....	700, 000
Accrued approximately.....	\$1,000,000
Less W. & L. E. unpaid note.....	300,000
Total.....	<u>14, 700, 000</u>

#### DISBURSEMENTS.

Invested in property.....	8, 500, 000
Between May 10, 1904, and May 28, 1908.....	\$9, 500, 000
Less real estate mortgages.....	1, 000, 000
Cost of stock of P. T. R. R. & Coal Co.....	3, 100, 000
Interest paid on bonds, excluding \$472,388.89 charged to property.....	3, 100, 000
Total.....	<u>14, 700, 000</u>

<sup>1</sup> See page 126.

<sup>2</sup> See Appendix 7.

<sup>3</sup> See Appendix 8.

Between December 1, 1904, and May 29, 1908, the date receivers were appointed, the Terminal's accounts show:

Gross revenue, all sources, except guaranty.....	\$2, 804, 188. 45
W. & L. E. R. R. 25 per cent guaranty.....	\$652, 590. 67
Wabash R. R. 25 per cent guaranty.....	365, 110. 76
	<hr/> 1, 017, 701. 43
Total revenue, all sources.....	3, 821, 889. 88

(Guarantee 26.63 per cent of total revenues, all sources.)

Payments on account of the guaranties were made as follows:

From W. & L. E. R. R. Co.:

Cash.....	\$275, 998. 51
Note for.....	300, 000. 00
Balance unpaid (May 28, 1908).....	76, 592. 16
	<hr/> \$652, 590. 67

From Wabash R. R. Co.:

Cash.....	359, 214. 61
Balance unpaid (May 28, 1908).....	5, 896. 15
	<hr/> 365, 110. 76

The result of the carrier's operations since the appointment of receivers is shown in Appendix 5. The operations for the period from May 29, 1908, to March 31, 1916, resulted in a deficit of about \$350,000. During this period of slightly less than eight years, the excess of operating revenue over operating expenses and taxes was about \$680,000. The deficit of approximately \$350,000 was caused by interest on receivers' certificates and other fixed charges.

In Appendix 4, the deficit of the corporate account of the Terminal is shown, on March 31, 1916, as \$2,927,736.63, whereas the published reports of this company in the hands of the public will show a profit and loss debit balance of about half this amount. The difference is accounted for by an entry of \$1,771,757.64, representing the debit balance standing in the profit and loss account on June 30, 1906, which was written off to cost of property. In a restatement of the accounts, this amount should be restored to the debit of profit and loss.

*The statement given below shows the results of the Terminal's operations for the period from December 1 1904, to June 30, 1916.<sup>1</sup>*



<sup>1</sup> Further details appear in Appendices 3 and 5.  
<sup>2</sup> Dec. 1, 1904, to June 30, 1906.  
<sup>3</sup> Deficit.

<sup>4</sup> Includes receiver's operations May 29 to June 30, 1908.  
<sup>5</sup> From carrier's report for year ended June 30, 1916.

EQUIPMENT.

Lack of freight cars and motive power was apparently one of the Terminal's greatest handicaps and no doubt figured largely in the conditions which brought about the receivership.

The equipment used by the Terminal prior to the receivership May 29, 1908, was furnished by the Wheeling, Wabash, and West Side Belt. During this period, the Terminal, Wheeling, and West Side Belt were operated under one management as the Wabash lines east of Toledo. The West Side Belt owned no equipment, but leased 998 coal cars from the Wabash.

With respect to the arrangement for the joint use of equipment, W. H. McMaster, formerly general superintendent of the Wabash lines east of Toledo, testified in the Wheeling foreclosure proceedings as follows:

The lines east of Toledo pooled the equipment. The West Side Belt Railroad paid a rental of something near \$9,000 a month for 998 cars. That was charged against the account for the three roads, along with other items that accrued for per diem on cars, for repairs to cars, and, in fact, maintenance of car equipment. The expense at the end of the month was prorated as between the three railroads, on a basis of the car mileage for each railroad for that month.

He further testified that the Terminal had no passenger cars or motive power for passenger trains, and that the passenger equipment and motive power were furnished by the Wheeling, which also furnished the motive power for the freight trains. B. A. Worthington, formerly vice president of the lines east of Toledo, testified in the same proceedings respecting the joint use of motive power and freight cars, as follows:

That was under a joint arrangement. We had a family rental. We charged simply the interest and depreciation on the cost of the equipment, and for repairs to both cars and engines. We charged them for locomotives on a locomotive mileage basis, and for cars on a car mileage basis.

The statement below, compiled from the Terminal's annual reports to the Commission, shows that prior to the receivership the carrier owned practically no revenue equipment. On May 29, 1908, when the receivers took charge of the property, the investment in rolling stock barely exceeded \$25,000.<sup>1</sup>

*Equipment owned.*

June 30—	Locomo- tives.	Coal cars.	Service cars.	Passen- ger cars.	Refriger- ator cars.
1905.....	0	0	81	0	0
1906.....	6	0	87	0	0
1907.....	4	0	81	0	0
1908.....	4	0	81	0	0
1909.....	18	500	77	0	0
1910.....	18	499	75	0	0
1911.....	18	1,500	74	0	0
1912.....	17	1,500	72	0	0
1913.....	17	1,500	70	2	0
1914.....	16	1,500	71	8	2
1915.....	16	1,500	25	10	2
1916.....	17	1,500	23	10	2

<sup>1</sup> See Appendix 2.

From the proceeds of receiver's certificates, the Terminal, in November, 1908, purchased 12 new freight locomotives, and in March, 1909, and December, 1910, 500 and 1,000 steel hopper coal cars, respectively.

In September, 1914, the Terminal returned to the West Side Belt the 998 cars leased by the West Side Belt from the Wabash, which the Terminal had been using, because the receiver considered them unsuitable and too costly by reason of their heavy repair expense.

The output of the coal company's mines depended upon the supply of cars furnished, and as the Terminal did not have sufficient equipment to meet the demand, coal, which might have been shipped over the Terminal, went over other roads because they were able to furnish cars.

#### RECEIVERSHIP.

Receivership proceedings were brought against the Terminal by the Wabash, and on May 29, 1908, F. H. Skelding and H. W. McMaster were appointed receivers. In the application for the appointment of a receiver, it was declared that the Terminal was insolvent; that it had defaulted in the payment of the principal and interest of a \$300,000 7 per cent note, made on November 30, 1906, to the Wabash; and, that it was unable to meet the interest due on January 1, 1908, on \$30,236,000 of first mortgage bonds. No one contested the appointment of receivers.

On March 30, 1912, Skelding resigned, leaving McMaster sole receiver in charge of the property. In December, 1912, McMaster resigned, and on December 18, 1912, Horace F. Baker was appointed receiver.

The receivership continued for over eight years, or until August 16, 1916, on which date the property was sold, on the order of the court, to the reorganization committee, the only bidder, for \$3,000,000. The sale was confirmed on August 30, 1916. In confirming the sale the court set aside the objections of the Fearon committee, which claimed that the price was inadequate.

The protracted period of the Terminal receivership was due, apparently, to the difficulty of the situation and by reason of the numerous efforts made by the various interests to work out a plan which would be acceptable to all. The earnings of the carrier, which usually form the basis of any reorganization plan, were uncertain and indefinite until the years 1914 and 1915. Prior to the receivership the Terminal and Wheeling properties worked in close harmony with each other, the Terminal, the Wheeling, and the West Side Belt being operated practically as one property. Upon the appointment of receivers, however, the traffic and trackage contracts were canceled, the car pooling arrangement was discontinued, and in the words of the Terminal's receiver, each company "stood on its own legs."

A receivership, or an adjustment of the capitalization of the Terminal was, from the beginning, almost inevitable. The company was greatly overcapitalized and according to the testimony of the receiver, which is borne out by the statements of the carrier's earnings (see Appendices 3 and 5), the interest on the first mortgage bonds was not earned even when the payments by the Wabash and Wheeling, of 25 per cent of the gross earnings of these companies on certain business interchanged with the Terminal under the terms of the traffic and trackage agreement, were included. See page 134.

At the commencement of the receivership the physical property of the Terminal was in poor condition, due to unfinished permanent construction and insufficient maintenance. In order to safely operate the property considerable expenditures had to be made and the money necessary for this purpose was provided largely through the issuance of receiver's certificates.

On October 29, 1908 the receivers were authorized to issue \$973,000 receivers' certificates, and the proceeds thereof, \$973,375, were used for the purpose of lining tunnels, painting bridges, and for purchasing equipment.

On March 11, 1909, \$500,000 certificates were authorized and \$433,771.60 were issued at 101½, the proceeds, \$440,278.17, being used for the purchase of 500 steel hopper cars.

On December 13, 1910, \$2,000,000 additional receivers' certificates were authorized; \$989,108.75 were sold and the proceeds, \$971,054.58, were also used to purchase additional freight equipment.

The receiver's possession of the Terminal property terminated April 1, 1917.

#### CANCELLATION OF THE TRAFFIC AND TRACKAGE CONTRACT.

On June 9, 1908, Judge R. W. Tayler appointed B. A. Worthington receiver of the Wheeling. Worthington, at the time of his appointment, was the first vice president and general manager of both the Wheeling and the Terminal. On August 22, 1908, the receiver made the following application to the court:

Your receiver respectfully represents that, at the time he took possession of the property of the Wheeling & Lake Erie Railroad Company, that company was exchanging traffic with the receivers of the Wabash Pittsburgh Terminal Railway Company on the basis provided for in a traffic and trackage contract among the Wabash Railroad Company, the Wheeling & Lake Erie Railroad Company, and the Pittsburgh, Carnegie & Western Railroad Company (said last-named company being one of the constituent companies subsequently forming the Wabash Pittsburgh Terminal Railway Company) dated October 10, 1902, and supplemental traffic and trackage contract among the Wabash Railroad Company, the Wheeling & Lake Erie Railroad Company, and the Wabash Pittsburgh Terminal Railway Company dated May 10, 1904, copy of which contracts will be found attached to the report of the receiver heretofore filed in this cause on July 25, 1908, and marked, respectively, Exhibits 5 and 6.

Said contract of October 10, 1902, gave to the Wabash Pittsburgh Terminal Railway Company the right, in fixing schedules of percentages for rates, to insist upon an arbitrary mileage of not less than 100 miles instead of its actual mileage of about 60 miles, on all freight traffic passing over its road between Pittsburgh and a connection with the tracks of the Wheeling & Lake Erie Railroad Company, except on such traffic as might originate on the line of the Wabash Pittsburgh Terminal Railway Company and terminate on the line of the Wheeling & Lake Erie within 100 miles of Pittsburgh; on which said traffic the Wabash Pittsburgh Terminal Railway Company should receive an arbitrary allowance of 10 cents per ton as compensation for originating such traffic, and, in addition thereto, should receive its agreed percentage of the balance of the earnings.

Said supplemental contract of May 10, 1904, gave to the Wabash Pittsburgh Terminal Railway Company the right to demand, out of the gross revenues of the Wabash Railroad Company and the Wheeling & Lake Erie Railroad Company, derived from the interchange of traffic with the Wabash Pittsburgh Terminal Railway Company, in addition to the revenues to be given it under the terms of the first-mentioned contract, an additional sum not to exceed in amount 25 per cent of the gross revenues derived by the Wabash Railroad Company and the Wheeling & Lake Erie Railroad Company from such traffic, in order to provide a fund for the Wabash Pittsburgh Terminal Railway Company, out of which it might meet the interest upon its first mortgage bonds, of which there are outstanding \$29,500,000, and second mortgage bonds, of which there are outstanding \$20,000,000.

Your receiver further shows that, after his appointment, he notified Messrs. F. H. Skelding and H. W. McMaster, receivers of the Wabash Pittsburgh Terminal Railway Company, having been appointed such on May 29, 1908, in a cause pending in the United States circuit court for the western district of Pennsylvania, entitled: *Wabash Railroad Company, complainant, v. The Wabash-Pittsburgh Terminal Railway Company, defendant*, No. 4, November term, 1908; that he would submit to the court for its advice and direction the question whether, as such receiver, he should adopt or reject said contracts, and proposed that in the meantime, without prejudice to the rights of any of the parties, traffic should be interchanged on the basis of the contract of October 10, 1902, which said proposition was accepted by said receivers of the Wabash Pittsburgh Terminal Railway Company on June 18, 1908. A copy of your receiver's letter, as well as the reply thereto of the receivers of the Wabash Pittsburgh Terminal Railway Company, will be found on pages 32 and 33 of your receiver's report heretofore filed July 25, 1908, and which your receiver begs leave to have treated as a part of this application, the same as if fully set out herein.

Your receiver further shows that he has thoroughly investigated the effect of said contracts on the operation and earnings of the Wheeling & Lake Erie Railroad Company, and that the revenue derived by that company from such traffic is insufficient to pay the operating expenses incident to the handling of such traffic without taking into consideration taxes or fixed charges, and that it is not to the advantage of the property for your receiver to adopt said contracts and to interchange traffic with the receivers of the Wabash Pittsburgh Terminal Railway Company under the terms thereof.

Your receiver, therefore, recommends that he be authorized to reject both of said contracts and to make such other arrangements with the Wabash Pittsburgh Terminal Railway Company or its receivers as may be practical for the interchange of traffic on a division of rates that will, in the opinion of your receiver, justify the Wheeling & Lake Erie Railroad Company in handling business over the line of the Wabash Pittsburgh Terminal Railway Company.

(Signed)

SQUIRE, SANDERS & DEMPSEY,  
Attorneys for Receiver.  
48 I. C. C.

The court issued an order on August 22, 1908, authorizing and directing the Wheeling receiver "to discontinue interchanging traffic under said contracts." The effect of this order was to cut off the 25 per cent guaranty provided in the triparty traffic and trackage contract and to bring about a readjustment of the rate divisions between the companies involved.

The comparative income statement (Appendix 3) showing the results of operations for the period from 1904 until the appointment of receivers on May 29, 1908, indicates that even with the 25 per cent guaranty payments made by the Wabash and Wheeling the Terminal was unable to meet its interest charges.

On June 4, 1910, Judge R. W. Tayler, in whose court the foreclosure proceedings against the Wheeling were being conducted, granted Henry W. McMaster and Francis H. Skelding, as receivers of the Terminal, permission to intervene in the proceedings.

These proceedings were conducted before Judge Tayler, and later before Judge Day, who heard the final arguments and rendered the decision. The decision was filed December 19, 1913, as a "memorandum," and this memorandum decision<sup>1</sup> served as the basis for the final decree issued by Judge Day on April 1, 1914.

The following is quoted from Judge Day's memorandum decision:

In the ambitious effort to perfect a railroad system the gentlemen interested in the Wabash and in the Pittsburgh-Toledo syndicate for some reason or other gave little or no attention to the rights of the Wheeling. The trustees of the Terminal mortgages have no greater rights than the Terminal to the benefits under these contracts, and a contrary doctrine can not be, and I am convinced was not, seriously urged. Both of these contracts were for the main purpose of affording aid to the Terminal, and in entering into these contracts the provisions of section 3300 of the Revised Statutes of Ohio were not followed. All of these informalities in the execution of these contracts add to the impression that they were unfair and unjust to the Wheeling, and accordingly they will be set aside and canceled, as prayed for in the cross-bill of the receiver.

Considering the entire record, it is quite apparent that the regrettable situation resulting in the insolvency of these three railroad companies had its inception in the ambitious minds of the originators of the syndicate, who, in hope of material personal gain, considered corporate entities as mere forms to be used for their own advancement. It also appears that as the syndicate plans progressed the Wabash was selected as the dominant corporation, the Terminal, owned by the Wabash, as the corporation to be aided and assisted, and the Wheeling as the giver of aid in the link of mutual benefit to the two other companies.

On appeal the decision of the lower court was sustained.

#### PROTECTIVE COMMITTEES.

Five protective committees, representing holders of Terminal first and second mortgage bonds, were formed subsequent to the date, June 1, 1908, when the Terminal defaulted in payment of interest on its first mortgage bonds.

<sup>1</sup> See *Central Trust Co. of N. Y., Trustee, v. W. & L. E. R. R. Co.*, 211 Fed., 515.

The first committee, referred to as the "Wallace committee," was formed on June 3, 1908, to protect first mortgage bondholders. It was composed of J. N. Wallace, president of the Central Trust Company, New York City, chairman; Paul Morton, president and director of the Equitable Life Assurance Society of the United States; Haley Fiske, vice president and director of the Metropolitan Life Insurance Company; Harry Bronner, of Hallgarten & Company; George P. Butler, of George P. Butler & Brother; Myron T. Herrick, and Gordon Abbott.

The second committee, referred to as the "Chaplin committee," was formed on July 25, 1910, and was composed of James C. Chaplin, vice president of the Colonial Trust Company, Pittsburgh, chairman; Meigs H. Whaples, president of the Connecticut Trust & Safe Deposit Company, Hartford; William R. Nicholson, president of the Land Title & Trust Company, Philadelphia; Clarence R. Harper, president of the Union Trust Company, Philadelphia; and Richard Sutro, of Sutro Bros. & Company, bankers, of New York City, with Samuel Untermeyer, New York City, as counsel. The reasons for the organization of the Chaplin committee as given in its circular requesting deposits of bonds, were, among others, that the Wallace committee had done nothing for the protection of the interests of the bondholders; had failed to promulgate a plan of reorganization; had omitted to do anything whatsoever for the conservation of the property or the prevention of its disintegration; and, that the committee or some of its members had taken action, in connection with certain litigation affecting the mortgaged property, antagonistic to the interests of the bondholders.

The Chaplin committee caused to be instituted several suits for the purpose of enforcing claims or recovering property subject to the lien of the first mortgage. One suit was brought against the Wabash to recover for stockholders' liability for the Terminal stock, issued by the Terminal under the terms of the agreement with the Pittsburgh-Toledo syndicate. This suit was apparently never brought to a conclusion. Another suit, brought against the Wheeling to recover for amounts due under the traffic and trackage agreement, was lost by the Terminal. A suit brought against the Pittsburgh-Toledo syndicate for moneys due the Terminal under the syndicate agreement is still pending. A proceeding was also brought against the Wabash to secure the deposit, subject to the lien of the Terminal's first mortgage, of the stock of the coal company, which was claimed to have been acquired partly from the proceeds of the first mortgage bonds. Apparently this suit was dropped.

Differences arose between the Wallace and Chaplin committees resulting in several suits between these representatives of the bondholders, which, no doubt, served to prolong the period of receivership. Among these was a suit by the Colonial Trust Company

against the Wallace committee for the possession of bonds originally deposited with the Wallace committee but whose depositors had responded to the Chaplin committee's request for bond deposits and had given the latter committee their certificates of deposit with the Wallace committee. The Chaplin committee also secured an injunction restraining the Wallace committee from further representing the Columbia Trust Company as a depository of first mortgage bonds under the Wallace committee's agreement of June 3, 1908.

On June 25, 1910, the Wallace and Chaplin committees adjusted their differences and formed what is known as the "reorganization committee." This committee, of which J. N. Wallace was chairman, consisted of five members from the Chaplin committee—James C. Chaplin, Clarence L. Harper, W. R. Nicholson, Richard Sutro, Meigs H. Whaples; three members from the Wallace committee—J. N. Wallace, Gordon Abbott, and Harry Bronner; Asa S. Wing and Haley Fiske. The reorganization plan which, with some modifications, finally became operative, was prepared and submitted by this committee. There were eventually deposited with the reorganization committee \$27,213,500 of first mortgage and \$2,016,875 of second mortgage bonds.

A number of bondholders, deeming the reorganization plan inequitable, formed, on August 31, 1915, a first mortgage dissenting bondholders' committee, known as the "Fearon committee." This committee was composed of Charles Fearon, of Charles Fearon & Company, Philadelphia, chairman; Matthew S. Brennan, president, Mutual Life Insurance Company, Baltimore, Md., and G. T. Townsend. On or about December 26, 1916, however, this committee issued a notice to its depositing bondholders recommending that those who could arrange to pay the assessment and participate in the reorganization plan had a favorable chance of recovering part of their original investment. A large percentage of the bonds deposited with the Fearon committee were eventually deposited with the reorganization committee.

The fourth committee, known as the "second mortgage bondholders' committee," was composed of Alexander J. Hemphill, vice president of the Guaranty Trust Company, New York, chairman; A. J. Miller, of Boissevain & Company; and A. H. Wiggin, director of the Bankers' Trust Company. This committee finally approved the reorganization plan and recommended that second mortgage bondholders accept said plan and make the cash payments required thereunder.

The fifth committee, a nonassenting bondholders' committee, known as the "Ely committee," composed of Daniel B. Ely, chairman, E. E. Carpenter, and C. J. Jaqua, proposed a joint reorganiza-

tion of the Terminal and Wheeling properties, but this plan failed of adoption.

Prior to the promulgation of the reorganization plan of June 25, 1915, a number of plans looking toward the reorganization of the Terminal were prepared by the protective committees but for various reasons each of these were abandoned.

#### FORECLOSURE.

Upon default in the payment of the interest on the Terminal's first mortgage bonds, due on June 1, 1908, the Mercantile Trust Company, trustee under the first mortgage, commenced foreclosure proceedings and on January 3, 1913, a decree was entered directing the sale of the property for a sum not less than \$6,000,000. This amount was subsequently reduced to \$3,000,000.

All of the property subject to the lien of the first mortgage was sold on August 16, 1916, to Russell F. Thomes and Lester Soloman, representing the reorganization committee.

The Fearon committee contested the sale upon the ground of inadequacy of price, but the objections were overruled and the sale was confirmed.

The proceeds of the sale of the mortgaged property had not been distributed when this investigation was completed, but it was then estimated that first mortgage bondholders would realize about \$8.04 per bond.<sup>1</sup> No sale had then been made of the unmortgaged assets, the proceeds of which are distributable among the general creditors, including the first mortgage bondholders, to the extent of their deficiency judgment. The second mortgage bondholders will participate in the distribution of the proceeds of unmortgaged assets only, the same as general creditors.

#### REORGANIZATION.

The reorganization plan provided that the Terminal should retain control of the coal company and the West Side Belt. Immediately prior to the reorganization the total capitalization of the Terminal amounted to \$60,229,000, consisting of \$10,000,000 capital stock, all held by the Wabash; \$30,236,000 of first mortgage bonds; and \$19,993,000 of second mortgage bonds.

The reorganization plan provided that holders of Terminal first-mortgage bonds should make a cash payment of \$300 for each \$1,000 of bonds deposited with the reorganization committee, receiving in exchange \$300 in preferred stock and \$1,000 in common stock of the new company, the Pittsburgh & West Virginia Railway Company, together with Wheeling stock on the following basis:

\$28 (par) of first preferred stock;  
\$210 (par) of second preferred stock; and  
\$390 (par) of common stock.

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<sup>1</sup> Par value, \$1,000.

It was also provided that second mortgage bondholders could participate to the extent that first mortgage bondholders failed to deposit and satisfy the cash requirement on first mortgage bonds. Payment of the cash requirement was made a condition for participation in any of the benefits of the reorganization plan.

The original plan required that approximately \$9,000,000 in cash should be contributed by the bondholders. As a sufficient number of bondholders did not come in under the reorganization plan to raise this sum, an amendment or modification of the plan was made on January 4, 1916, providing for a contribution by an underwriting syndicate for such proportion, not exceeding \$5,000,000, of the cash requirements, less \$500,000 "cash commission" to be paid the syndicate, as might not be provided by the bondholders. H. P. Goldschmidt & Company and Sutro Bros. & Company formed the syndicate to underwrite the \$5,000,000 cash required to carry out the plan of reorganization.

The cash furnished by bondholders and the above-mentioned syndicate, aggregating \$9,070,800, has been used to pay the \$2,395,880 Terminal receivers' certificates, \$714,286 West Side Belt receivers' certificates, and \$3,818,152 for acquiring the coal company's stock and bonds given by the Terminal as collateral for notes aggregating \$5,000,000. The remainder will be used for discharging mortgages; for the payment of taxes, judgments, claims, reorganization expenses, incorporation of new company, etc.; and to furnish working capital.

The plan provides that there will be only \$5,100,868 bonds and mortgages left outstanding in the hands of the public undisturbed by the reorganization. Of these \$3,922,000 are first mortgage bonds of the coal company; \$383,000 first mortgage bonds of the West Side Belt; and \$795,868 mortgages on Terminal real estate. On this basis, the annual interest charges for the Terminal and its subsidiaries will be reduced to \$261,103.

Under the reorganization plan the new company will issue \$39,600,000 stock, of which \$9,100,000 will be preferred and \$30,500,000 common, making a total net<sup>1</sup> capitalization, including the bonds referred to above, of \$44,700,868 as against obligations, including interest accruals to July 1, 1915, aggregating \$91,260,345 prior to reorganization.

The Wheeling stock owned by the Terminal was acquired by the reorganization committee when it purchased the Terminal property at the foreclosure sale on August 15, 1916, and those who participated in the reorganization—the assenting bondholders—received Wheeling stock as provided under the terms of the reorganization plan. The Pittsburgh & West Virginia Railway Company has,

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<sup>1</sup> Excluding stock of subsidiary companies.

therefore, as a company, no interest in the reorganized Wheeling Company, although stockholders of the former company may hold stock in the latter.

#### CONCLUSION.

The result of the operation of the Terminal to date shows clearly that the building of this property was a poor business venture. Fifty millions in bonds were issued against a railroad 60 miles in length and which cost about \$25,000,000.<sup>1</sup> The par value of its first mortgage bonds alone exceeded by approximately \$5,000,000 the actual amount of cash expended for property devoted to transportation at the commencement of the receivership. Notwithstanding the assurance of traffic contained in its traffic and trackage agreements, and the 25 per cent guaranty of the Wheeling and Wabash, the Terminal failed to secure sufficient tonnage to enable it to pay interest on its first mortgage bonds.

As has been already shown in detail, the Terminal was not only greatly overcapitalized but the percentage of its funded debt, 83.04 per cent, to total capital obligations was unusually high. Against an actual cash investment in road and equipment and securities of affiliated companies of approximately \$38,000,000,<sup>2</sup> there was outstanding, when receivers were appointed, over \$61,000,000 in securities.

This case illustrates again the great need for control of security issues and emphasizes the wisdom of the Commission's requirement, which has been in effect since 1907, that the charges to the accounts reflecting the carriers' investment in road and equipment shall be based upon the cash cost of the property.<sup>3</sup>

The following comparative statements will be found in the appendix of this report:

Appendix 1.—Statement of expenditures for road and equipment by predecessor companies of the Wabash Pittsburgh Terminal Railway Company and the Pittsburgh & Carnegie Railroad Company.

Appendix 2.—Statement of expenditures for road and equipment by the Wabash Pittsburgh Terminal Railway Company, excluding expenditures made by the receivers.

Appendix 3.—Statement of income and profit and loss for period December 1, 1904, to May 28, 1908, of the Wabash Pittsburgh Terminal Railway Company's corporate account.

Appendix 4.—General balance sheet statement of the Wabash Pittsburgh Terminal Railway Company's corporate account:

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<sup>1</sup> See Appendix 2.

<sup>2</sup> See Appendix 4.

<sup>3</sup> See paragraph 3, general instructions, page 10, classification of investment in road and equipment of steam roads.

Appendix 5.—Statement of income and profit and loss for period May 29, 1908, to March 31, 1916, of the Wabash Pittsburgh Terminal Railway Company, receiver's account.

Appendix 6.—General balance sheet statement of the Wabash Pittsburgh Terminal Railway Company, receiver's account.

Explanation of the more important items of expenditures contained in Appendix 2 will be found in the footnotes thereto.

THE WHEELING & LAKE ERIE RAILROAD COMPANY.

On June 30, 1901, a few months subsequent to the time control of the Wheeling was acquired by W. E. Conner, for the Pittsburgh-Toledo syndicate (see p. 109), the funded debt of the company amounted to \$14,188,129.40. On June 30, 1905, the funded debt had increased to \$18,196,319.

On August 1, 1905, there were issued \$8,000,000, par value, of three-year 5 per cent gold notes. Concerning the issuance of these notes the following is quoted from the carrier's annual report to its stockholders for the fiscal year ended June 30, 1906:

At a special meeting of the stockholders of the company, held on the 26th day of September, 1905, authority was given to create an issue of \$35,000,000 of 50-year 4 per cent general mortgage bonds for the following uses and purposes, namely:

To provide for the retirement of the existing underlying mortgage bonds, aggregating the sum of \$15,000,000.

To make financial provision for the improvement and equipment of the company's property and the extension of the same, and the acquisition of additional lines of railroad, terminals, terminal facilities, docks and other property, and for other lawful corporate purposes.

In pursuance of the terms of the above mortgage, \$12,000,000, par value, of these bonds have been issued and delivered to the New York Trust Company, as trustee, under a certain agreement (which agreement was also approved at the above stockholders' meeting) to secure \$8,000,000 of the company's three-year 5 per cent gold notes, dated August 1, 1905, which notes are also secured by 62 locomotives of various classes and 2,000 gondola cars purchased and paid for out of the proceeds of said notes.

The entire issue of three-year notes was sold at 95 per cent of their par value, realizing the sum of ..... \$7,600,000.00

The immediate payments out of the proceeds of said notes were for the following accounts, namely:

For equipment above referred to.....	\$2,180,676.67	
For the payment of unsecured floating debt obligations previously incurred in connection with acquisition of other railroads and expenditures chargeable to capital account, made in the current operations of the railway.....	1,996,818.77	
	<hr/>	4,177,495.44

Leaving a balance available for additional equipment and the general betterment and improvement of the railway and property.....		3,422,504.56
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These notes were sold to the Wabash, which placed its guaranty upon them and then sold them in the open market.

It appears that Joseph Ramsey, jr., was opposed to the issuance of these notes, and that his objections resulted ultimately in his retirement from the Wabash and its eastern subsidiaries. On July 15, 1914, Mr. Ramsey, now deceased, testified in the hearings before the Committee on Interstate and Foreign Commerce, on House Resolution 559, as follows:

The first I knew of it (issuance of the notes) I was called to New York from St. Louis, where my Wabash office was, and was told when I got to New York that an arrangement had been made, and the agreement already underwritten to the extent of \$7,000,000 at that time, for the issue of \$17,000,000 notes.

After having the plan outlined to me I objected. I was the president of the three companies which would be interested in the note issue and would have to sign the contracts as president of each company, and I objected to it on the ground of danger of a receivership. That was in April, 1905.

I declined to go on with that, holding that we ought to sell bonds in preference, or if we could not do that, then we had better go slow and live on our earnings until we could do that.

Mr. Gould said that if the bonds could be sold, that would be the way to do it, but he said, "my people here tell me that you can not sell bonds." That was on Wednesday, April 5, 1905.

I then went out and started to work. I thought we could sell the bonds at 88½, because I had been offered 88½ for a branch road bond guaranteed by the Wheeling & Lake Erie, and the banker had said he would prefer a straight Wheeling & Lake Erie bond, as such bonds would cover all of the properties, while branch bonds covered only the branch line. Mr. Gould agreed with me that it would be better to sell the bonds. I went to a banker and obtained a proposition for \$10,000,000 of the bonds, with an option to take \$12,000,000 at 88½. Mr. Gould approved of that. A board meeting was held on the following Wednesday—that was on Saturday, the 8th of April—and on the following Wednesday a meeting of the Wheeling & Lake Erie board was called to authorize the issuance of the bonds. Mr. Gould stated to the board that he had entered into a contract for the sale of notes, which contract had been more than half underwritten at that time, and that Mr. Ramsey had been called here to execute the contract, but that when he got here he thought it was dangerous, and that they should sell bonds instead, and that Mr. Ramsey had gone out and sold the bonds and that it was up to the board to either ratify one or the other of the transactions. Mr. Gould said: "I can not ask you to approve my contract"; and it was voted down. I believe Mr. Gould himself voted against his own proposition." Then Mr. Gould said: "Mr. Ramsey, put in your bond proposition." I said: "Mr. Gould, this is yours as much as it is mine; you authorized me to do it, as chairman of the board." He said: "No; you put it in. You handled it when my people said that it could not be done." It was ratified by the board, and a stockholders' meeting was called to arrange for the bond issue.

I returned to St. Louis after arranging for the stockholders' meeting, and the next Wednesday I received a telegram that my resignation, "at my earnest solicitation," had been accepted. It is true that I had offered to retire some time before, because I would not be responsible unless I controlled everything in operating matters. I am inclined to be that way a little. The houses which had purchased the bonds declined to go ahead, as they complimentarily said they had bought the bonds because I was managing the road. I went to them and urged them to stand by their agreement, and said that the road was worth it, and they finally made a deal at 85 instead of 88½. Mr. Gould was still anxious to go on with the bond issue. They claimed that they could not get a mortgage that suited them, and it ultimately failed.

The Wheeling was placed in the hands of a receiver on June 8, 1908, on application made by the National Car Wheel Company, a creditor to the extent of \$87,910. On August 1, 1908, the Wheeling defaulted in the payment of principal and interest of its three-year notes. As the notes bore the guaranty of the Wabash, that company executed a contract with Kuhn, Loeb & Company and Blair & Company, whereby these two firms of bankers agreed to purchase the notes in default for the account of the Wabash and hold them until the advances made in the purchase were repaid. The Wabash defaulted in its obligations, under the agreement, and the notes were bought in by the bankers.

Foreclosure proceedings were then begun by the Central Trust Company of New York as trustee under the general mortgage. The Terminal receivers intervened in this foreclosure suit, contending that the traffic and trackage contract between the Terminal, the Wabash, and the Wheeling was entitled to a preference over the bonds being foreclosed. The desire of the Terminal receivers was apparently to have the traffic and trackage contract remain in effect in the event of a foreclosure sale of the property of the Wheeling.

On October 30, 1916, Kuhn, Loeb & Company and Blair & Company purchased the properties of the Wheeling for \$12,000,000 at a foreclosure sale under its general mortgage.

Financial statements of the affairs of the Wheeling have been prepared, and appear in the appendix of this report, as follows:

Appendix 9.—General balance sheet statement of corporate account for the period June 30, 1900, to June 30, 1915.

Appendix 10.—Statement of income and profit and loss for period June 30, 1900, to June 30, 1915.

Appendix 11.—General balance sheet statement of the receiver's account for the period June 30, 1909, to June 30, 1915.

Appendix 12.—Statement of income and profit and loss of the receiver's account for period June 30, 1909, to June 30, 1915.

From these statements it will be noted that the gross and net operating revenue has tended to increase steadily since 1900, and that, under the receivership, \$2,349,516.21 has been added to property, and \$1,923,376.88 of funded debt retired, through income.

The disposition made of the Wheeling stock owned by the Terminal in the reorganization of the latter company is referred to on page 142.

## PITTSBURGH TERMINAL RAILROAD &amp; COAL COMPANY.

The Pittsburgh Terminal Railroad & Coal Company was incorporated under the laws of Pennsylvania on April 28, 1902, for the purpose "of mining coal, clay, and sand, and the quarrying of stone, and the manufacture of coke, brick, tile, pottery, and other products of the articles mined or quarried, and the selling and transporting to market of any or all of said minerals in crude form, or manufactured products thereof." The original capitalization, given as \$1,000, was subsequently increased to \$14,000,000. A funded debt of \$7,000,000 was also authorized.

By contract dated June 25, 1902, Charles Donnelly and Frank F. Nicola, of Pittsburgh, Pa., and Frank M. Osborne, of Cleveland, Ohio, agreed to sell and convey to the coal company the following:

Title to about 15,000 acres of coal lands (in Allegheny and Washington counties, Pa.), surface, mining rights, and privileges, free from all liens.

Capital stock of the West Side Belt Railroad Company, amounting to 21,300 shares, out of an issue of 21,600 shares.

Capital stock of the Belt Line Railway Company—entire capital stock of 2,400 shares; and, \$350,000 in cash.

In exchange they were to receive all the capital stock not then subscribed, amounting to 139,990 shares, out of an issue of 140,000 shares; also \$5,500,000 of an issue of \$7,000,000 first mortgage bonds to be created by the coal company. These bonds were to be secured by a first mortgage of the coal company upon all its coal lands, rights, etc., thus conveyed, and upon all property, real and personal, owned by the West Side Belt Railroad, including its capital stock owned, which was to be deposited under the mortgage. There was to be reserved from the \$5,500,000 and deposited with a trustee, \$1,000,000, to be used in retiring the first mortgage bonds of the West Side Belt Railroad Company. There was also to be deducted from the \$5,500,000, amounts of liens and encumbrances on the property not fully satisfied at the date of contract.

The physical property owned by the coal company consists of the coal lands, previously referred to, and complete equipment including tipples and tracks for its five shafts, only four of which, however, have been recently in use.

The West Side Belt Railroad Company is the coal company's only direct rail connection.

By contract dated June 25, 1902, the coal company agreed to ship 25 per cent of its traffic over the West Side Belt Railroad, and in return the West Side Belt Railroad agreed to guarantee payment of an issue of the coal company's bonds, amounting to \$7,000,000.

Control of the coal company was secured by the Terminal on September 9, 1904, as previously explained.

The properties of the coal company were leased to the Pittsburgh Coal Company between November, 1904, and June, 1909, at an annual rental of \$350,000, plus a royalty on the coal mined. This lease was canceled on or about June 1, 1909, since which time the coal company has operated its own properties.

The coal company caused to be incorporated the Mutual Supply Company in September, 1902, and the Pittsburgh Terminal Land Company and Pittsburgh Terminal Clay Manufacturing Company in February, 1903. The Belt Line Railway Company, previously mentioned, seems to be merely a "paper" railroad.

An addition to the funded debt of the coal company was created through the issuance of first consolidated mortgage bonds, which are referred to on page 129.

Income, profit and loss and general balance sheet statements of the coal company have been prepared, and will be found in Appendices 13 and 14.

#### WEST SIDE BELT RAILROAD COMPANY.

The West Side Belt is the successor, through merger and consolidation, filed May 23, 1902, of the Bruce & Clairton Railroad Company and the West Side Belt Railroad Company. The former was incorporated in Pennsylvania on November 12, 1901, and the latter was the successor, through consolidation and merger, filed July 3, 1897, of the West Side Belt Railroad Company, incorporated in Pennsylvania on July 25, 1895, and the Little Saw Mill Run Railroad Company, incorporated by special act of the general assembly of the same state, approved April 15, 1850.

The line of the West Side Belt extends from west end, Pittsburgh, Pa., on the Ohio River, back and through what are termed the South Hills, intersecting the main line of the Terminal just west of the western portal of Mount Washington tunnel and continuing on to Clairton, Pa., a total distance of about 21 miles. It has one branch, the Banksville branch, an unimportant line of about 2 miles. The Thompson Run branch, constructed under the charter of the Terminal, extends from Longview, Pa., on the West Side Belt, to a point of connection with the Union Railroad at Mifflin Junction, Pa., a distance of about 3½ miles.

The West Side Belt connects with the Pittsburgh & Lake Erie Railroad at west end, Pittsburgh, Pa.; with the Terminal at Belt Junction and also at Longview, Pa., where, through the intermediary of the Thompson Run branch, it reaches the Union Railroad; with the Montour Railroad, a coal road, at Longview, Pa.; with the Baltimore & Ohio Railroad, at Bruceton, Pa.; with the St. Clair Terminal Railroad, a so-called plant facility road affiliated with the

Clairton works of the Carnegie Steel Company at Clairton, Pa.; and, with the Pennsylvania Railroad, also at Clairton.

The bulk of the West Side Belt's freight business consists of coal and ore, although its general tonnage increased considerably during the past two years. The passenger business is almost negligible; the company owns but three passenger coaches and operates but one train daily in each direction.

The following statement of tonnage handled, compiled from the carrier's annual reports to the Commission, indicates the nature and extent of its freight business:

\* Includes unclassified and less than carload.

The equipment owned by the West Side Belt on June 30, 1916, consisted of the following: 7 locomotives, 13 freight cars, 3 passenger cars, 3 work cars. Prior to September, 1914, the West Side Belt leased 998 coal cars from the Wabash.

On page 124 mention is made of certain "paper" railroads which are subsidiary to the West Side Belt. One of these, the Pittsburgh & State Line Railway, is the successor, through judicial sale and reorganization, on October 18, 1899, of the Pittsburgh, Canonsburg & State Line Railroad, organized on October 14, 1889. The former was succeeded by the Pittsburgh, Akron & Western Railroad through judicial sale and reorganization, on September 3, 1904. The other "paper" railroad is the State Line Connecting Railway, which was organized on May 29, 1903, and which adopted the same location as had previously been adopted by the Pittsburgh, Canonsburg & State Line Railroad. The West Side Belt carries the stock of the Pittsburgh, Akron & Western Railway in its books at \$60,000, and that of the State Line Connecting Railway at the nominal amount of \$1.

The West Side Belt was placed in the hands of receivers on June 22, 1908, on a general creditors' complaint brought by the Wabash.

It has not defaulted in the interest payment on its first mortgage bonds. Between 1902 and 1908, the coal company advanced for construction purposes, primarily for the Bruce & Clairton Railroad, more than \$2,000,000, which is carried in the balance sheet of the West Side Belt as "nonnegotiable debt to affiliated companies." No interest on this amount has ever been paid.

Receiver's certificates amounting to \$714,285.71 were issued to provide funds for replacement of bridges and tracks, increase of yard facilities, repainting bridges, and purchase of locomotives.

The Pittsburgh Construction Company, which built a portion of the line of the West Side Belt, secured a judgment for an amount due under the construction contract and a decree of sale was ordered. The property was not sold, however, as the Terminal reorganization committee purchased the Pittsburgh Construction Company's judgment and paid off the receiver's certificates.

In March, 1917, on the application of the West Side Belt, the court entered a decree terminating the receivership, the company assuming all of its own and the receiver's debts.

The following comparative statements will be found in the appendix of this report:

Appendix 15.—General balance sheet statement of corporate account for the period June 30, 1900, to June 30, 1908.

Appendix 16.—Statement of income and profit and loss of corporate account for period June 30, 1900, to June 22, 1908.

Appendix 17.—General balance sheet statement of the receiver's account for period June 30, 1900, to March 31, 1916.

Appendix 18.—Statement of income and profit and loss of the receiver's account for period June 22, 1908, to March 31, 1916.

#### PITTSBURGH & CARNEGIE RAILROAD COMPANY.

The Pittsburgh & Carnegie Railroad Company was incorporated under the laws of Pennsylvania on February 4, 1901, for a term of 999 years, for the purpose of constructing, maintaining, and operating a railroad from a point in the city of Pittsburgh, Pa., to a point in or near the borough of Carnegie, in Allegheny county, a distance of about 5 miles. Its authorized capital stock is \$50,000, consisting of 1,000 shares of a par value of \$50 each. The articles of association designated A. D. Neeld as president, and J. W. Patterson, A. M. Neeper, and E. E. Jones as directors.

The subscribers to the articles of association and the number of shares of stock which each agreed to take are as follows:

	Shares.
A. D. Neeld.....	5
J. W. Patterson.....	185
A. M. Neeper.....	5
Ernest E. Jones.....	5

There was not found in the possession of the Terminal any evidence of ownership of the Pittsburgh & Carnegie Railroad Company, such as stock certificates or a trust agreement executed by the incorporators. The records in possession of the carrier would seem to indicate that no stock certificates had ever been issued.

The following is quoted from a letter dated Pittsburgh, Pa., December 2, 1908, written by H. F. Baker, receiver of the Terminal, to H. W. McMaster, formerly general manager of the Terminal:

The Pittsburgh & Carnegie Railroad was incorporated by Mr. Neeper, who was then attorney for the Wabash interests, at the instance and request of the syndicate, and it was the purpose of those gentlemen at that time, as I have been informed, to have constructed the Pittsburgh end of the line on a location which should be adopted by the Pittsburgh & Carnegie Railroad Company. It was found later that the Pittsburgh & Mansfield Railroad Company had a prior location which interfered somewhat with the proposed line of the Pittsburgh & Carnegie Railroad Company; so, instead of using the Pittsburgh & Carnegie Railroad Company charter, the syndicate purchased the Pittsburgh & Mansfield Railroad Company and merged that company with the Washington County Railroad Company, forming the Pittsburgh, Carnegie & Western Railroad Company. The Pittsburgh & Carnegie Railroad Company charter was never used after the formation of the Pittsburgh, Carnegie & Western Railroad Company, all the property at this end of the line being thereafter taken in the name of the Pittsburgh, Carnegie & Western Railroad Company. You will please note that the Pittsburgh & Carnegie Railroad Company was never merged with the Pittsburgh, Carnegie & Western Railroad Company and that the record title of the properties above mentioned, although part and parcel of the properties used by the Wabash Pittsburgh Terminal Railway Company, is still in the Pittsburgh & Carnegie Railroad Company.

The cashbook of J. W. Patterson, in account with the Pittsburgh-Toledo syndicate, shows an aggregate expenditure on account of the Pittsburgh & Carnegie Railroad Company of \$23,000. The records of the railroad company show that this amount was disposed of as follows:

Engineering.....	\$5, 464. 79
Land for transportation purposes.....	7, 464. 02
Bridges.....	444. 00
Organization expenses.....	248. 67
Stationery and printing.....	16. 00
Interest.....	13. 89
Cash on hand.....	9, 348. 63
Total .....	<u>23, 000. 00</u>

Only \$2,021.95 of the item of \$7,464.02, shown above as spent for land, was expended for the property now standing in the name of the Pittsburgh & Carnegie Railroad Company. The balance, \$5,442.07, was expended in the acquisition of land now standing in the name of the Pittsburgh, Carnegie & Western Railroad Company. It should be said that the \$2,021.95 just mentioned repre-

sents only a small part of the full purchase price, the difference having been paid by the Pittsburgh, Carnegie & Western Railroad Company.

The amount of cash on hand, \$9,348.63, as shown in the preceding tabulation, was transferred during November, 1901, to the credit of the Pittsburgh, Carnegie & Western Railroad Company and was taken up by that company in its cash account in the same month.

The Pittsburgh & West Virginia Railway Company claims a beneficial interest in the stock of the Pittsburgh & Carnegie Railroad Company, although the legal title to the stock still stands in the name of the individuals who organized the latter company.

APPENDIXES.

APPENDIX 1.—Consolidated statement of expenditures for road and equipment by predecessor companies of the Wabash Pittsburgh Terminal Railway Company and the Pittsburgh & Carnegie Railroad Company to May 10, 1904.

[Figures in italics represent credits.]

L. C. C. classification.	P., C. & W. R. R. and its predecessor companies.			Total of P., C. & W. R. R.	P., T. & W. R. R.	C. C. R. R.	Total P., C. & W. R. R.; P., T. & W. R. R.; C. C. R. R.	Pittsburgh & Carnegie R. R.	Grand total.
	Pittsburgh & Mansfield R. R.	Washington County R. R.	P., C. & W. R. R. (subsequent to merger).						
1. Engineering.....		\$5,025.44	\$237,714.39	\$242,739.83	\$95,101.65	\$18,005.46	\$355,846.94	\$5,464.79	\$361,311.73
2. Land.....	\$10,375.00	81,450.85	2,254,392.12	2,346,217.97	193,183.26	32,172.61	2,571,573.84	7,464.02	2,579,037.86
3. Grading.....			2,123,420.96	2,123,420.96	1,906,242.87	391,603.61	4,421,267.44		4,421,267.44
5. Tunnels and subways.....			1,839,659.27	1,839,659.27	751,139.62	33,081.18	2,623,880.07		2,623,880.07
6. Bridges, trestles, and culverts.....			2,394,333.81	2,394,333.81	782,217.29	1,032,669.27	4,149,220.37	444.00	4,149,664.37
7. Elevated structures.....									
8. Ties.....			99,493.80	99,493.80			99,493.80		99,493.80
9. Rails.....			305,640.18	305,640.18			305,640.18		305,640.18
10. Other track material.....			75,744.29	75,744.29	67.50		75,811.79		75,811.79
11. Ballast.....			55,035.62	55,035.62			55,035.62		55,035.62
12. Track laying and surfacing.....			75,323.48	75,323.48	3,072.16		78,395.64		78,395.64
13. Right-of-way fences.....			533.94	533.94	30.00		563.94		563.94
15. Crossings and signs.....			12,930.81	12,930.81	2,031.47	150.15	15,112.43		15,112.43
16. Station and office buildings.....			778,037.03	778,037.03	32.00		778,069.03		778,069.03
17. Roadway buildings.....			381.56	381.56			381.56		381.56
18. Water stations.....			1,103.61	1,103.61			1,103.61		1,103.61
19. Fuel stations.....									
20. Shops and enginehouses.....			144.36	144.36			144.36		144.36
26. Telegraph and telephone lines.....			105.29	105.29			105.29		105.29
27. Signals and interlockers.....	(1)	(1)		(1)					
29. Power plant buildings.....									
35. Miscellaneous structures.....									
37. Roadway machines.....			456.97	456.97			456.97		456.97
38. Roadway small tools.....			351.03	351.03			351.03		351.03
40. Revenue and operating expenses.....		1,568.81	55,879.71	57,446.52	200.00	30.00	57,686.52		57,686.52
41. Cost of road purchased.....	113,000.00			113,000.00			113,000.00		113,000.00
42. Other expenditures—Road.....			1,927.02	1,927.02			1,927.02		1,927.02
44. Shop machinery.....	(2)	(2)	6.89	(2)			6.89		6.89
45. Power plant machinery.....			26,450.00	26,450.00			26,450.00		26,450.00
51. Steam locomotives.....									
52. Freight-train cars.....									

45 1 0 0



APPENDIX 2.—Statement of expenditures for road and equipment, as of dates designated. Wabash Pittsburgh Terminal Railway Company.

[Figures in italics represent credits.]

I. C. C. classification.	May 10, 1904.	June 30, 1904.	Oct. 31, 1904.	Nov. 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	May 28, 1908.	Mar. 31, 1916. (Excludes expenditures by receiver.)
1. Engineering.....	\$361,311.73	\$379,254.83	\$395,151.69	\$398,265.31	\$411,874.41	\$424,514.60	\$425,026.12	\$425,021.72	\$425,362.47
2. Land.....	2,579,037.86	2,750,907.69	2,841,550.55	2,854,198.68	3,327,032.00	5,263,879.46	4,873,117.90	4,856,668.55	4,830,062.83
3. Grading.....	4,421,267.44	4,629,150.05	4,808,112.89	4,810,881.63	4,861,668.33	5,942,163.01	5,988,628.97	5,991,495.21	5,989,942.21
5. Tunnels and subways.....	2,623,880.07	2,744,154.34	2,784,573.83	2,793,800.34	2,844,363.60	3,162,121.30	3,267,630.46	3,267,725.16	3,266,524.32
6. Bridges, trestles, and culverts.....	4,149,664.37	4,490,119.65	4,849,857.97	4,854,360.89	5,054,053.66	4,926,037.61	4,920,914.89	4,921,212.07	4,917,669.99
7. Elevated structures.....	.....	.....	.....	.....	11,316.97	12,479.07	20,220.66	20,220.66	20,220.66
8. Ties.....	99,493.80	159,068.68	222,363.88	226,852.18	239,556.95	237,712.88	239,464.45	240,198.58	240,524.88
9. Rails.....	305,640.18	324,092.88	399,636.84	399,636.84	400,122.64	381,332.29	383,190.82	385,006.53	385,006.53
10. Other track material.....	75,811.79	83,545.96	98,814.90	100,760.02	118,327.41	139,168.59	139,610.01	139,604.51	139,610.01
11. Ballast.....	55,035.62	93,558.74	223,070.09	233,905.75	301,884.84	343,666.48	343,728.25	343,723.28	343,523.28
12. Track laying and surfacing.....	78,395.64	141,191.38	313,335.51	350,089.56	434,955.59	474,470.93	481,943.87	484,367.86	484,671.09
13. Right-of-way fences.....	563.94	563.94	1,342.73	1,382.73	3,983.41	11,443.48	13,838.87	13,838.87	13,838.87
15. Crossings and signs.....	15,112.43	19,929.84	23,176.05	23,483.83	28,864.60	31,104.43	34,575.96	36,697.45	36,768.23
16. Station and office buildings.....	778,069.03	1,106,896.90	1,532,757.43	1,653,995.61	1,917,236.29	2,462,585.43	2,790,638.95	2,791,263.96	2,782,748.04
17. Roadway buildings.....	381.56	1,869.68	2,754.35	2,898.72	4,288.46	11,417.62	11,631.49	11,631.49	10,681.49
18. Water stations.....	1,103.61	1,565.31	12,179.32	14,393.60	26,664.36	29,198.38	29,198.38	29,198.38	27,632.38
19. Fuel stations.....	.....	.....	.....	.....	918.82	13,430.43	13,430.43	13,430.43	13,430.43
20. Shops and engine houses.....	144.36	18,438.61	52,016.69	58,534.83	101,945.65	110,272.40	110,411.00	110,411.00	110,411.00
26. Telegraph and telephone lines.....	105.29	4,623.48	15,500.69	18,199.96	29,845.11	30,133.25	34,255.70	34,255.70	34,254.20
27. Signals and interlockers.....	.....	.....	262.09	262.09	304.67	8,760.18	8,760.18	8,760.18	8,760.18
29. Power plant buildings.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
35. Miscellaneous structures.....	.....	.....	.....	.....	15.74	227,600.90	311,263.99	311,397.27	311,390.27
37. Roadway machines.....	456.97	1,736.56	2,855.60	2,937.85	3,088.85	3,088.85	3,088.85	3,088.85	3,088.85
38. Roadway small tools.....	351.03	351.03	1,381.89	1,660.75	2,070.66	2,070.66	2,070.66	2,070.66	2,070.66
39. Assessments for public improvem'ts.....	.....	.....	.....	.....	.....	1,022.92	1,438.72	1,438.72	3,246.34
40. Revenues and operating expenses during construction.....	57,066.58	38,066.89	55,848.44	87,085.44	67,588.91	67,525.66	67,525.66	67,525.66	67,525.66
41. Cost of road purchased.....	113,000.00	113,000.00	113,000.00	113,000.00	113,000.00	113,000.00	113,000.00	113,000.00	113,000.00
43. Other expenditures—Road.....	1,927.02	1,927.02	1,927.02	1,935.02	4,404.12	29,243.27	29,243.27	29,243.27	29,243.27
44. Shop machinery.....	6.89	6.89	252.07	280.57	9,670.73	13,307.13	13,613.94	13,613.94	13,613.94
45. Power plant machinery.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
51. Steam locomotives.....	26,450.00	26,450.00	26,450.00	26,450.00	28,011.49	20,311.49	20,311.49	20,311.49	9,361.49
53. Freight-train cars.....	.....	.....	.....	.....	4,958.83	4,958.83	4,958.83	4,958.83	2,126.59
57. Work equipment.....	21,044.95	21,044.95	28,794.95	29,242.86	29,242.86	32,145.19	32,145.19	32,145.19	12,787.98
71. Organization expenses.....	5,259.36	16,810.58	16,810.58	16,810.58	32,657.80	32,657.80	32,657.80	32,657.80	32,657.80
72. General officers and clerks.....	9,033.13	10,303.99	15,344.54	16,709.03	16,964.64	16,964.64	16,964.64	16,964.64	16,964.64
73. Law.....	44,339.46	50,084.46	56,056.56	56,114.56	82,837.56	87,324.49	91,903.09	91,903.09	91,903.09
74. Stationery and printing.....	1,570.03	1,714.57	2,482.50	2,589.41	2,662.76	2,902.16	2,902.16	2,902.16	2,902.16

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75. Taxes.....	24,089.06	24,089.06	24,089.06	24,089.06	25,509.42	27,547.96	27,547.96	27,547.96
76. Interest during construction.....	5,158.69	62,822.65	329,480.32	465,129.69	464,592.57	464,592.57	464,592.57	464,592.57
77. Other expenditures—General.....	9,809.45	10,057.27	10,151.22	10,151.22	10,796.72	11,096.72	11,096.72	11,096.72
Total.....	15,761,530.86	17,251,274.10	19,149,694.37	19,476,917.73	20,882,293.61	25,038,401.74	25,248,394.79	25,161,683.87

1 Cost of property within Pittsburgh east of eastern portal of Mount Washington tunnel, \$3,445,066.  
2 Includes cost of Wabash building and freight station in Pittsburgh, estimated at \$2,200,000.  
3 See accounts 16 and 20. Could not separate charges for account 29.  
4 Substantially entire amount expended in erection and equipment of warehouses under approach to Pittsburgh passenger station.  
5 Revenue operations were considered to have begun Dec. 1, 1904.  
6 See accounts 16 and 44. Could not separate charges for account 45.  
7 Revenue operations were considered to have begun Dec. 1, 1904. Interest on bonds between June 1, 1904, and Dec. 1, 1904, \$472,388.89, included herein.  
8 Excludes expenditures made by receiver. See Appendix 7, wherein it is shown that the receiver has invested \$2,448,668.81 in road and equipment, making a total of \$27,610,352.68 invested in road and equipment on Mar. 31, 1916.

APPENDIX 3.—Comparative income and profit and loss statements, Wabash Pittsburgh Terminal Railway Company, corporate account.

[Figures in *italics* represent credits; those in bold face, debits.]

	Dec. 1, 1904, to June 30, 1905.	June 30, 1906.	June 30, 1907.	July 1, 1907, to May 28, 1908.	May 29, 1908, to Mar. 31, 1916(see note).	Total.
<b>Operating income.</b>						
Railway operating revenues:						
Freight revenue.....	\$135,897.48	\$796,000.76	\$1,359,531.42	\$994,874.67	<b>\$6,864.48</b>	\$3,279,939.85
Passenger revenue.....	48,742.76	96,829.20	100,202.86	83,250.74	1,512.35	830,537.91
Mail revenue.....	1,659.44	4,536.97	4,534.96	4,158.88	.....	14,890.25
Express revenue.....	4,318.48	10,423.23	12,192.92	11,240.22	.....	38,174.85
Milk revenue.....	.....	6,546.99	8,342.27	7,946.54	402.64	22,433.16
All other revenue.....	44,789.61	2,701.72	<b>21,807.08</b>	5,416.17	79.85	31,020.57
Total railway operating revenues.....	235,407.77	917,038.87	1,462,997.35	1,106,887.22	<b>5,834.62</b>	3,716,996.59
<b>Railway operating expenses:</b>						
Maintenance of way and structures.....	34,086.00	113,235.42	123,999.91	94,398.30	10,018.08	375,737.71
Maintenance of equipment.....	17,662.78	70,454.11	95,748.38	118,569.76	26,589.31	329,024.34
Traffic.....	.....	.....	.....	17,988.56	1,159.32	19,147.88
Transportation.....	113,335.76	388,380.37	494,489.99	268,788.50	8,012.96	1,273,007.58
General.....	32,106.81	44,059.64	57,406.49	36,178.35	819.30	170,570.59
Total railway operating expenses.....	197,191.35	616,129.54	771,644.77	535,923.47	46,598.97	2,167,488.10
Net revenue from railway operations.....	38,216.42	300,909.33	691,352.58	570,963.75	<b>51,983.59</b>	1,549,508.49
Railway tax accruals.....	41,134.49	24,964.80	67,755.23	96,379.76	34,860.23	265,094.51
Total operating income.....	<b>2,918.07</b>	275,944.53	623,597.35	474,583.99	<b>86,798.82</b>	1,284,413.98
<b>Nonoperating income.</b>						
Hire of freight cars—Credit balance .....	255.00	1,050.00	.....	.....	241.49	1,546.49
Miscellaneous rent income.....	11,167.79	14,465.66	11,973.26	20,002.48	8,139.91	60,749.05
Miscellaneous nonoperating income.....	.....	674.79	26,976.02	37,857.62	.....	65,508.43
Income from unfunded securities and accounts.....	2,777.06	223,434.78	249,114.05	188,994.56	173,615.99	837,936.44
Miscellaneous income.....	28.00	.....	.....	.....	.....	28.00
Total nonoperating income.....	14,227.85	239,625.23	288,063.33	246,854.61	176,997.39	965,768.41
Gross income.....	11,309.78	515,569.76	911,660.68	721,438.60	90,203.67	2,260,182.39

Deductions from gross income.						
Hire of freight cars—Debit balance.....	2,912.00	.....	.....	81,627.21	23.01	84,562.23
Miscellaneous rents.....	42.53	93.00	.....	20,821.36	.....	20,954.89
Miscellaneous tax accruals.....	.....	601.80	.....	.....	.....	601.80
Interest on funded debt.....	602,302.77	1,165,693.58	1,219,954.82	1,081,666.67	1,778.69	4,067,839.15
Interest on unfunded debt.....	38,328.19	262,451.30	349,925.17	343,243.11	16,528.06	978,414.70
Total deductions from gross income.....	643,580.48	1,428,839.68	1,569,879.99	1,527,358.35	17,883.74	5,152,374.76
Net income.....	632,270.70	913,269.92	658,219.81	806,919.75	107,487.31	2,902,192.37
Profit and loss.						
Balance at beginning of year.....	.....	632,270.70	1,548,588.89	2,206,808.20	3,012,722.95	.....
Balance transferred from income.....	.....	913,269.92	658,219.81	806,919.75	107,487.31	2,902,192.37
Miscellaneous credits.....	.....	.....	.....	.....	12,452.83	12,452.83
Miscellaneous debits.....	.....	8,043.27	.....	.....	9,194.53	12,237.80
Loss on retired road and equipment.....	.....	.....	.....	.....	25,759.29	25,759.29
Profit and loss balance carried to balance sheet (deficit).....	632,270.70	1,548,588.89	2,206,808.20	3,012,722.95	2,927,736.63	2,927,736.63

NOTE.—Entries shown in this column represent adjustments in the corporate account. Receivers were appointed May 28, 1908, and the results of operations under the receivers are embodied in Appendix 5.

APPENDIX 4.—Comparative balance sheet statement, Wabash Pittsburgh Terminal Railway Company, corporate account.

[Figures in italics represent credits; those in bold face, debits.]

	Oct. 31, 1904.	Nov. 30, 1904.	June 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	May 28, 1908.	Mar. 31, 1916.
<b>DEBITS.</b>								
<i>Investments.</i>								
Investment in road and equipment.....	\$19,149,694.37	\$19,475,917.73	\$17,251,274.10	\$20,882,293.61	\$25,038,401.74	\$25,241,686.61	\$25,248,394.79	\$25,161,683.87
Investment in affiliated companies:								
W. & L. E. R. R.—Stock.....	6,000,000.00	6,000,000.00	6,000,000.00	6,000,000.00	6,000,000.00	6,000,000.00	6,000,000.00	6,000,000.00
P. T. R. R. & C. Co.—Stock.....	1,577,250.00	3,159,740.13	.....	3,159,740.13	3,159,740.13	3,159,740.13	3,159,740.13	3,159,740.13
Pittsburgh & Cross Creek R. R.—Stock	.....	.....	.....	.....	.....	.....	.....	12,487.18
P. T. R. R. & C. Co.—Bonds.....	.....	.....	.....	3,500,000.00	3,500,000.00	3,500,000.00	3,500,000.00	3,500,000.00
Total investments.....	26,726,944.37	28,635,657.86	23,251,274.10	33,542,033.74	37,698,141.87	37,901,426.74	37,908,134.92	37,833,911.18
<i>Current assets.</i>								
Cash.....	1,633,048.91	778,460.56	1,704,481.58	95,062.20	148,130.32	58,628.60	25,111.17	145.27
Special deposits.....	.....	.....	.....	2,794,840.00	580,100.00	54,440.68	21,558.82	12,091.00
Loans and bills receivable.....	353,000.00	878,450.00	.....	476,950.00	9,000.00	309,000.00	309,000.00	800,000.00
Traffic and car service balances.....	.....	.....	.....	33,440.78	55,662.51	111,612.55	13,661.24	.....
Due from agents and conductors.....	3,910.48	4,756.25	.....	8,922.43	5,953.68	5,715.23	6,698.65	2,687.59
Miscellaneous accounts receivable.....	54,076.71	82,747.24	.....	180,007.63	299,702.93	212,984.77	164,365.46	115,674.40
Interest and dividends receivable.....	.....	.....	.....	.....	.....	1,500.00	.....	.....
Total current assets.....	2,036,215.20	1,239,414.06	1,704,481.58	3,589,223.04	1,098,549.44	753,881.83	540,395.34	430,598.26
<i>Deferred assets.</i>								
Working fund advances.....	.....	.....	.....	.....	.....	.....	100.00	.....
Total deferred assets.....	.....	.....	.....	.....	.....	.....	100.00	.....
<i>Unadjusted debits.</i>								
Rents and premiums paid in advance.....	.....	.....	.....	.....	1,102.10	8,402.58	3,527.69	.....
Discount on securities issued:								
Prior to May 10, 1904.....	24,605,804.27	24,605,804.27	25,357,493.95	24,555,398.69	24,555,398.69	24,555,398.69	24,521,212.44	24,571,618.02
Subsequent to May 10, 1904.....	153.50	780,153.50	153.50	1,199,172.02	1,465,072.02	1,565,072.02	1,600,948.27	1,999,189.15
Other unadjusted debits.....	1,465,446.86	1,617,886.60	1,317,168.90	1,186,355.57	216,552.38	178,734.43	163,499.30	126,000.00
First mortgage bonds—Pledged.....	.....	.....	.....	.....	.....	736,000.00	663,000.00	.....
Total unadjusted debits.....	26,071,404.62	27,003,843.37	26,674,816.35	20,939,926.28	26,238,126.19	27,043,607.72	26,952,187.70	26,696,807.17
Grand total.....	54,834,564.19	56,878,915.28	51,630,572.03	64,071,183.06	65,034,816.50	65,698,916.29	65,400,817.96	64,961,316.61

16  
14  
12  
10

CREDITS.	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00
	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00	10,000,000.00
Stock.							
Long term debt.							
Capital stock.....	22,460,000.00	24,500,000.00	20,000,000.00	27,000,000.00	29,000,000.00	30,236,000.00	30,236,000.00
First mortgage 4 per cent bonds.....	20,000,000.00	20,000,000.00	20,000,000.00	20,000,000.00	20,000,000.00	19,993,000.00	19,993,000.00
Second mortgage 4 per cent bonds.....	(3)	(3)	(3)	(3)	1,018,200.66	788,867.32	796,217.32
Real estate mortgages.....	42,460,000.00	44,500,000.00	40,000,000.00	47,000,000.00	50,018,200.66	51,024,867.32	51,024,217.32
Total long term debt.....							
Current liabilities.							
Loans and bills payable.....				5,050,000.00	5,350,000.00	6,187,000.00	5,919,833.34
Traffic and car service balances payable.....	99,903.60	64,266.53					34,448.30
Audited accounts and wages payable.....	867,769.74	754,446.32	372,010.76	569,115.01	314,076.81	287,076.99	423,427.88
Miscellaneous accounts payable.....	27.18	113.87		1,920.76	69,700.86	78,806.83	1,542.50
Interest matured unpaid.....				1,074,840.00	580,100.00	144,991.05	942,252.69
Unmatured interest accrued.....	333,333.33	500,000.00	66,666.66	127,017.73	139,409.65	169,535.08	
Total current liabilities.....	1,300,979.54	1,318,826.72	438,677.42	6,822,893.50	6,413,287.32	6,867,408.95	7,321,504.71
Unadjusted credits.							
Tax liability.....				15,131.32	12,950.91	12,109.27	61,224.37
Other unadjusted credits.....	1,073,584.65	1,060,088.56	1,191,894.61	865,428.94	164,863.32	1,833.95	6,944.51
Total unadjusted credits.....	1,073,584.65	1,060,088.56	1,191,894.61	880,560.26	151,912.41	13,443.22	68,168.88
Corporate surplus.							
Profit and loss.....				632,270.70	1,548,583.89	2,206,806.20	2,012,732.95
Grand total.....	54,834,564.19	56,878,915.28	51,630,572.03	64,071,183.06	65,034,816.50	65,698,916.29	64,961,316.61

1 \$7,000 par value held in treasury.      2 Obligation outstanding but not put on book until January, 1906.



Total nonoperating income.....	3,592.15	61,627.19	65,871.99	89,449.20	105,055.29	88,803.51	59,483.25	76,700.08	149,110.22
Gross income.....	15,751.89	214,317.49	217,128.31	143,573.13	124,473.02	79,616.54	165,470.04	146,319.04	300,256.99
Deductions from gross income.									
Hire of freight cars—Debit balance.....	4,473.49	141,427.89	85,473.48	96,369.97			561.15		.....
Rent for locomotives.....									11,294.91
Rent for passenger-train cars.....									1,779.69
Rent for work equipment.....									1,053.75
Joint facility rents.....									16,994.25
Miscellaneous rents.....	2,015.83	22,814.00	22,725.90	21,891.75	21,856.75	21,872.50	22,040.48	18,551.47	100.84
Interest on funded debt.....		16,581.61	74,854.92	96,668.96	137,225.09	142,664.84	143,752.82	143,752.82	.....
Interest on unfunded debt.....		42,828.23	42,366.64	41,829.49	41,761.39	41,771.40	41,758.53	41,880.00	139,322.99
Amortization of discount on funded debt.....	3,299.00						18,183.66		68.50
Miscellaneous income charges.....									52.75
Total deductions from gross income.....	9,788.32	223,651.73	225,420.94	256,760.17	200,843.23	238,761.27	226,246.64	204,184.29	170,667.59
Net income.....	5,963.57	9,334.24	8,292.63	118,187.04	76,370.21	159,144.73	60,776.60	57,875.25	129,589.40
Disposition of net income.									
Income appropriated for investment in physical property....	4,629.73	16,028.22	8,976.00	22,754.37	5,951.63	5,758.97	21,908.50	29,331.48	33,231.73
Total appropriation of income.....	4,629.73	16,028.22	8,976.00	22,754.37	5,951.63	5,758.97	21,908.50	29,331.48	33,231.73
Income balance transferred to profit and loss.....	1,333.84	25,362.46	17,268.63	185,941.41	82,321.84	164,906.70	82,685.10	87,206.78	96,357.67
Profit and loss.									
Balance at beginning of year.....		1,333.84	24,028.62	41,297.25	177,238.66	259,560.50	424,464.20	507,149.30	594,418.97
Balance transferred from income.....	1,333.84	25,362.46	17,268.63	185,941.41	82,321.84	164,906.70	82,685.10	87,206.78	96,357.67
Unrefunded overcharges.....								.85	.....
Miscellaneous credits.....									56.00
Loss on retired road and equipment.....								63.79	41.78
Profit and loss balance carried to balance sheet.....	1,333.84	24,028.62	41,297.25	177,238.66	259,560.50	424,464.20	507,149.30	594,418.97	498,047.08

APPENDIX 6.—Comparative balance sheet statement, Wabash Pittsburgh Terminal Railway Co., receiver's account.

[Figures in *italics* represent credits; those in bold face, debits.]

	June 30, 1908.	June 30, 1909.	June 30, 1910.	June 30, 1911.	June 30, 1912.	June 30, 1913.	June 30, 1914.	June 30, 1915.	Mar. 31, 1916.
<b>DEBITS.</b>									
<i>Investments.</i>									
Investment in road and equipment.....	34,629.73	31,007,848.70	31,317,936.39	32,316,044.50	32,356,592.03	32,362,916.07	32,384,499.88	32,415,437.08	32,448,668.81
Investment in affiliated companies.....	11,648.69	28,665.67	75,448.43	87,529.80	87,632.15	83,149.90	82,671.17	75,586.19	64,076.19
Total investments.....	7,018.96	1,036,514.37	1,393,384.82	2,403,574.30	2,444,224.18	2,446,065.97	2,467,171.05	2,491,023.27	2,512,745.00
<i>Current assets.</i>									
Cash.....	55,547.27	733,170.39	88,545.60	129,944.11	40,050.94	44,148.19	41,546.65	45,652.14	123,574.76
Special deposits.....								33,963.26	13,620.00
Traffic and car-service balances.....					25,365.02	26,643.75	21,710.83	29,895.48	12,571.97
Due from agents and conductors.....	3,191.62	9,468.63	5,823.67	12,094.75	10,398.68	8,104.95	14,818.48	4,148.62	8,726.41
Miscellaneous accounts receivable.....	43,915.38	158,206.87	177,975.15	227,606.24	128,315.17	130,985.80	144,686.02	52,792.83	60,404.29
Material and supplies.....	16,539.89	37,423.92	48,674.97	47,237.65	63,428.55	32,694.31	23,081.46	56,907.12	54,481.05
Other current assets.....									56.70
Total current assets.....	119,194.16	938,269.81	321,019.39	416,881.75	267,558.36	242,577.00	245,843.44	223,359.45	273,435.18
<i>Deferred assets.</i>									
Working fund advances.....	100.00	100.00	100.00	100.00	100.00	100.00	100.00	103.45	105.00
Total deferred assets.....	100.00	100.00	100.00	100.00	100.00	100.00	100.00	103.45	105.00
<i>Unadjusted debits.</i>									
Rents and premiums paid in advance.....	291.15		11,530.15	8,929.00	6,302.84	1,613.02	16,294.83	14,765.60	11,404.77
Discount on capital stock.....									1,137.28
Discount on funded debt.....						18,133.66			
Other unadjusted debits.....	9,898.09	17,287.08	8,152.79	29,971.19	20,297.21	20,632.93	20,878.55	4,782.54	
Total unadjusted debits.....	10,189.24	17,264.11	19,682.94	38,900.19	26,600.05	40,379.61	37,173.39	19,548.14	12,542.00
Grand total.....	122,464.44	1,997,138.29	1,734,187.15	2,859,456.24	2,738,482.59	2,729,122.58	2,750,287.87	2,734,034.31	2,798,827.18

Long term debt.	Receiver's certificates.....	1, 208, 000. 00	1, 308, 771. 60	2, 333, 771. 60	2, 376, 098. 18	2, 305, 880. 35	2, 395, 880. 35	2, 395, 880. 35
	Total long term debt.....	1, 208, 000. 00	1, 308, 771. 60	2, 333, 771. 60	2, 376, 098. 18	2, 395, 880. 35	2, 395, 880. 35	2, 395, 880. 35
Current liabilities.								
	Traffic and car-service balances payable.....	24, 123. 82	69, 720. 20	81, 089. 34	4, 699. 83	1, 140. 54	1, 055. 85	547. 12
	Audited accounts and wages payable.....	87, 074. 14	635, 796. 60	424, 028. 58	407, 275. 13	534, 499. 79	535, 772. 56	451, 913. 95
	Miscellaneous accounts payable.....	517. 72	457. 37	310. 64	304. 46	587. 77	3, 410. 25	5, 055. 53
	Interest matured unpaid.....							33, 963. 26
	Unmatured interest accrued.....	734. 59	19, 964. 33	28, 517. 66	28, 912. 33	43, 606. 20	43, 572. 61	13, 620. 00
	Other current liabilities.....		59. 50	2, 919. 84	2, 354. 08	2, 396. 58	2, 352. 58	43, 504. 48
	Total current liabilities.....	112, 450. 27	725, 998. 00	536, 866. 06	443, 545. 83	582, 230. 88	586, 163. 85	2, 405. 08
Unadjusted credits.								
		112, 450. 27	725, 998. 00	536, 866. 06	443, 545. 83	582, 230. 88	586, 163. 85	517, 046. 16
Corporate surplus.								
	Tax liability.....	4, 017. 14	60, 488. 26	68, 813. 04	53, 929. 50	10, 361. 06	47, 653. 09	43, 593. 49
	Accrued depreciation—Equipment.....	33. 46	434. 98	26, 523. 57	60, 529. 35	93, 220. 75	126, 657. 80	185, 678. 32
	Other unadjusted credits.....		587. 72	18, 332. 31	5, 600. 28	7, 794. 82	15, 074. 66	6, 107. 31
	Total unadjusted credits.....	4, 050. 60	61, 510. 96	113, 668. 92	120, 059. 13	111, 376. 63	189, 385. 55	235, 377. 12
Additions to property through income and surplus.								
		4, 050. 60	61, 510. 96	113, 668. 92	120, 059. 13	111, 376. 63	189, 385. 55	235, 377. 12
Profit and loss.								
		4, 029. 73	20, 657. 95	52, 388. 32	58, 839. 95	64, 098. 92	86, 097. 42	148, 570. 63
Total corporate surplus.								
		1, 333. 84	24, 028. 62	177, 238. 66	259, 560. 50	424, 464. 20	507, 149. 30	498, 047. 08
		5, 963. 57	8, 370. 67	124, 850. 34	201, 920. 55	360, 365. 28	421, 141. 88	849, 476. 45
Grand total.....		122, 464. 44	1, 992, 138. 29	2, 859, 456. 24	2, 738, 482. 59	2, 729, 122. 58	2, 750, 287. 87	2, 798, 827. 18

APPENDIX 7.—Statement of first mortgage bonds of the Wabash Pittsburgh Terminal Railway Co. sold subsequent to May 10, 1904.

NOTE.—Minutes of the meeting of the executive committee held on Mar. 30, 1905, show that the first \$5,000,000 and the next \$2,000,000 of first mortgage bonds were sold under a contract dated Oct. 3, 1904. Minutes of the meeting of the executive committee held on Feb. 5, 1906, record the formal acceptance of a proposition by George P. Butler & Bros. to sell through Wm. A. Reed & Co. \$2,000,000 of first mortgage bonds at 87½ net. Testimony of Mr. H. B. Hanson, treasurer of Wabash Pittsburgh Terminal Railway, in foreclosure proceedings of Wabash Pittsburgh Terminal Railway shows that \$500,000 of first mortgage bonds were sold to Mr. Frank J. Gould at 80 net; the executive committee approving the sale at a meeting held on July 19, 1906.

APPENDIX 8.—Statement of notes receivable and payable of the Wabash Pittsburgh Terminal Railway Co.

NOTES RECEIVABLE.

Date of note.	By whom issued.	In- terest rate.	Due date.	Par value.	Date paid.	Consideration and purpose.
Aug. 31, 1904	C. H. Connell Co. to James G. Corcoran to the Wabash Pittsburgh Terminal Ry. Co.	Per ct. (1)	Sept. 30, 1904	\$9,000.00	June 30, 1915 <sup>1</sup> .....	Cash at par advanced; reason for loan not given.
Do.....	The Wheeling & Lake Erie R. R.....	5	Demand.....	150,000.00	Oct. 24, 1905.....	Cash at par advanced for corporate purposes.
Feb. 28, 1905	do.....	5	do.....	225,000.00	do.....	Do.
Mar. 27, 1905	do.....	5	do.....	50,000.00	do.....	Do.
June 30, 1905	do.....	5	do.....	15,000.00	do.....	Do.
Oct. 10, 1904	John D. Nicholson, through Mercan- tile Trust Co.	6	do.....	116,000.00	Installments be- tween Oct. 28, 1904, and Sept. 5, 1905.	From testimony of Mr. H. B. Henson, W. P. T. Ry. foreclosure proceedings: "Mr. Nicholson was one of the subscribers, as I was informed, to the Pittsburgh-Toledo syndicate, and when the syndicate made its call for final payment of subscriptions, Mr. Nicholson stated that he was unable to make the payment and that he would like to have accommodation secured by \$388,000 of W. P. T. Ry. second mortgage bonds, the note to be paid from the proceeds of the collateral bonds as they were sold from time to time."
Oct. 7, 1904	Pittsburgh-Toledo syndicate.....	4	do.....	90,000.00	Dec. 31, 1904.....	Cash at par advanced; reason for loan not given.
Nov. 16, 1904	Donnelly, Osborne & Nicola to Barney Smith Car Co. to the Wabash Pitte- sburgh Terminal Ry. Co.	6	do.....	50,000.00	Dec. 28, 1904.....	Cash at par advanced to take up two notes of \$25,000 each, due November 14, 1904, by Donnelly, Osborne & Nicola. Date of notes taken up on November 16, 1904, not known. Interest at 6 per cent charged between November 15, 1904, and December 28, 1904, date of payment.
May 27, 1907	The Wheeling & Lake Erie R. R.....	6	Demand.....	300,000.00	Unpaid Aug. 16, 1916.	Given by W. & L. E. R. R. as payment on account of traffic balances due under traffic and trackage contract—25 per cent guaranty—to Apr. 1, 1907. This note was immediately de- posited as collateral for note payable given May 27, 1907, to Wabash Railroad for \$268,000.

<sup>1</sup> With interest 30 days after date.

<sup>2</sup> Charged to profit and loss.

APPENDIX 8.—Statement of notes receivable and payable of the Wabash Pittsburgh Terminal Railway Co.—Continued.

NOTES PAYABLE.

Date of note.	To whom issued.	In- terest rate.	Due date.	Par value.	Date paid.	Purpose.
Sept. 30, 1904	The Mercantile Trust Co.....	Per ct.	Mar. 31, 1906..	\$1,077,250.00	Oct. 12, 1904.....	For purchase of capital stock P. T. R. R. & C. Co.
Nov. 1, 1904	.....do.....	(1) 5	Demand.....	700,000.00	Nov. 23, 1904.....	Do.
Mar. 27, 1905	The Wabash R. R.....	5	.....do.....	50,000.00	Oct. 24, 1905.....	To loan to W. & L. E. R. R.
Apr. 13, 1905	Geo. J. Gould.....	5	.....do.....	100,000.00	June 5, 1905.....	To meet obligations at Pittsburgh office.
May 1, 1905	The Wabash R. R.....	5	.....do.....	1,500,000.00	Unpaid Aug. 15, 1916.	To meet interest requirements and obligations at Pittsburgh office.
Do.....	.....do.....	5	.....do.....	3,500,000.00	.....do.....	To purchase bonds of P. T. R. R. & C. Co.
Dec. 6, 1905	Pittsburgh Terminal R. R. & Coal Co.	5	.....do.....	250,000.00	Balance of \$8,000	To meet obligations at Pittsburgh office.
June 15, 1906	.....do.....	5	.....do.....	100,000.00	unpaid Aug. 15, 1916.	
Nov. 27, 1906	The Mercantile Trust Co.....	6	May 27, 1906..	465,000.00	Balance of \$79,- 074.22, unpaid Aug. 15, 1916.	To assist in meeting interest requirements. (See Appendix 8.)
Nov. 30, 1906	The Wabash R. R.....	6	Demand.....	300,000.00	Unpaid Aug. 15, 1916.	To assist in meeting interest requirements.
May 27, 1907	.....do.....	6	.....do.....	263,000.00	.....do.....	Do.

1 Note for 6 months or sooner, with interest at 6 per cent to date of payment, and 1½ per cent between date of payment and date of original maturity.

NOTE.—Statement of notes payable herein shown does not include notes secured by real estate mortgages underlying the mortgage of the first mortgage bonds.

APPENDIX 9.—Comparative balance sheet statement, *Wheeling & Lake Erie Railroad Co., corporate account.*  
[Figures in bold face represent debit.]

	June 30, 1900.	June 30, 1901.	June 30, 1902.	June 30, 1903.	June 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	June 30, 1908.	June 30, 1915.
DEBITS.										
Investments.										
Investment in road and equipment	\$45,324,703.71	\$49,848,243.21	\$52,276,413.41	\$53,832,622.96	\$54,407,286.11	\$55,905,584.87	\$60,234,972.40	\$62,390,210.52	\$62,300,171.87	\$57,676,634.67
Investments in affiliated companies	471,764.71	783,296.42	848,568.47	1,255,581.19	1,919,153.45	2,096,735.22	2,695,291.40	2,337,372.26	2,356,123.34	3,498,956.63
Total investments.....	45,796,468.42	50,631,539.63	53,124,981.88	55,088,204.15	56,326,439.56	58,002,320.09	62,930,263.80	64,727,582.78	64,656,295.21	61,175,591.30
Current assets.										
Cash.....	317,951.72	233,845.87	706,671.27	306,212.18	283,911.35	270,682.69	2,392,267.27	574,371.76	147,614.58	1,255.00
Special deposits.....	158,476.03	144,648.01	152,747.08	28,472.50	30,812.50	28,502.50	152,097.50	84,457.50	.....	.....
Loans and bills receivable.....	.....	.....	.....	.....	.....	.....	160,768.72	160,768.72	.....	.....
Traffic and car-service balances.....	951.63	618.69	1,162.09	1,172.01	1,265.92	1,608.81	40,825.79	14,949.65	98,299.66	.....
Due from agents and conductors..	139,306.97	106,297.73	108,488.07	156,782.29	98,088.48	146,016.60	283,631.38	270,549.37	83,147.49	.....
Miscellaneous accounts receivable.	200,857.33	202,580.84	331,022.65	327,240.22	320,011.09	800,869.82	619,786.99	1,045,251.10	572,904.76	117,692.87
Material and supplies.....	228,120.19	241,315.25	221,367.12	427,011.18	339,788.54	311,906.56	667,333.01	478,821.00	29,564.43	.....
Total current assets.....	1,045,663.87	929,306.39	1,521,458.28	1,246,890.38	1,073,857.88	1,559,586.98	4,316,710.66	2,629,169.10	931,530.92	118,947.87
Unadjusted debits.										
Rents and premiums paid in advance.....	3,671.24	6,686.65	7,325.65	10,988.43	8,996.54	10,267.27	16,678.88	11,557.71	.....	.....
Other unadjusted debits.....	.....	.....	400.00	55,665.77	32,499.83	18,411.50	9,988.66	41,700.39	216,196.51	1,111,753.70
Total unadjusted debits.....	3,671.24	6,686.65	7,725.65	66,654.20	41,496.37	28,678.77	26,667.54	53,258.10	216,196.51	1,111,753.70
Grand total.....	46,845,803.53	51,567,532.67	54,654,165.81	56,401,748.73	57,441,793.81	59,590,585.84	67,273,642.00	67,410,009.98	65,804,022.64	62,406,292.87
CREDITS.										
Stock.										
Capital stock.....	32,630,000.00	35,703,700.00	36,980,400.00	36,980,400.00	36,980,400.00	36,980,400.00	36,980,400.00	36,980,400.00	36,980,400.00	36,980,400.00
Long term debt.										
Funded debt unmatured.....	12,541,039.00	14,188,129.40	15,836,297.22	17,271,168.56	17,243,743.42	18,196,319.00	26,314,500.00	26,065,500.00	25,819,500.00	16,298,000.00

APPENDIX 9.—Comparative balance sheet statements, Wheeling & Lake Erie Railroad Co., corporate account—Continued.

	June 30, 1900.	June 30, 1901.	June 30, 1902.	June 30, 1903.	June 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	June 30, 1908.	June 30, 1915.
<b>CREDITS—continued.</b>										
<b>Current liabilities.</b>										
Loans and bills payable.....	\$474,884.62	\$371,670.76	\$450,524.10	\$508,105.00	\$1,370,680.00	\$2,301,575.00	\$1,377,575.00	\$1,277,575.00	\$1,160,000.00	\$798,177.46
Traffic and car service balances payable.....	32,503.91	32,280.21	32,225.59	27,624.98	81,299.01	117,619.44	146,139.34	213,316.26	82,719.54	.....
Audited accounts and wages payable.....	632,000.74	601,793.80	560,694.06	749,625.87	882,627.99	1,233,104.36	1,328,751.96	1,419,441.02	1,196,033.06	231,177.21
Miscellaneous accounts payable....	76,591.07	61,746.78	68,084.23	73,154.96	2,904.25	106,221.95	100,209.70	114,381.20	114,493.33	2,095.00
Interest matured unpaid.....	47,150.00	26,197.50	28,780.00	28,472.50	30,812.50	28,502.50	152,097.50	84,457.50	39,830.00	3,011,598.97
Funded debt matured unpaid.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	8,000,000.00
Unmatured interest accrued.....	154,354.16	174,186.21	184,796.90	190,274.33	196,396.81	213,815.19	365,144.32	365,821.02	142,222.22	220,315.56
Unmatured rents accrued.....	.....	.....	.....	.....	.....	.....	708.30	1,208.30	1,677.75	.....
Total current liabilities.....	1,417,574.50	1,267,875.26	1,325,104.88	1,577,257.64	2,544,720.56	4,000,838.44	3,470,626.12	3,476,200.30	2,736,975.90	12,263,364.20
<b>Unadjusted credits.</b>										
Tax liability.....	47,016.53	49,142.23	67,113.03	86,820.88	83,568.33	98,526.44	101,319.59	107,235.29	112,454.67	.....
Other unadjusted credits.....	3,619.99	5,182.08	19,623.92	41,893.65	81,499.30	.....	.....	41,649.55	7,027.92	.....
Total unadjusted credits....	50,636.52	54,324.31	86,736.95	128,714.53	165,067.63	98,526.44	101,319.59	148,884.84	119,482.59	None.
<b>Corporate surplus.</b>										
Profit and loss.....	206,553.51	353,503.70	425,626.76	444,208.00	507,862.20	314,501.96	406,796.29	739,024.84	147,664.15	8,185,471.88
Grand total.....	46,845,803.53	51,567,532.67	54,654,165.81	56,401,748.73	57,441,793.91	59,590,585.84	67,273,642.00	67,410,009.98	65,804,022.64	62,406,292.87

APPENDIX 10.—Comparative income and profit and loss statement, 1900-1913. [Figures in bold face represent debits.]

	June 30, 1900.	June 30, 1901.	June 30, 1902.	June 30, 1903.	June 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	June 30, 1907, to June 8, 1908.	June 30, 1913.
<b>Operating income.</b>										
Railway operating revenues.....	\$2,560,441.69	\$2,879,858.87	\$3,473,696.13	\$4,140,763.70	\$4,200,745.87	\$4,553,728.72	\$5,318,801.34	\$6,398,625.42	\$5,121,868.77	.....
Railway operating expenses.....	1,838,275.04	2,026,347.67	2,539,309.81	3,228,526.59	3,275,299.36	3,639,135.12	3,975,631.21	4,399,788.54	4,054,370.81	.....
Net from railway operations..	731,166.65	853,511.20	934,386.32	912,237.11	925,446.51	914,593.60	1,343,170.13	1,998,836.88	1,067,497.96	None.
Railway tax accruals.....	80,975.03	96,751.13	129,562.02	154,253.94	157,045.11	183,231.14	187,598.94	226,916.64	236,930.35	.....
Uncollectible railway revenues.....								13,902.07		.....
Total operating income.....	650,191.62	756,760.07	804,824.30	757,983.17	768,401.40	731,362.46	1,155,571.19	1,758,018.17	830,567.61	None.
<b>Nonoperating income.</b>										
Hire of freight-train cars—Credit balance.....	33,864.58	24,079.83	8,833.56	94,007.17	124,536.12	41,877.82	213,475.51		117,762.45	.....
Unfunded securities and accounts..	13,171.42									.....
Total nonoperating income....	47,036.00	24,079.83	8,833.56	94,007.17	124,536.12	41,877.82	213,475.51	None.	117,762.45	None.
Gross income.....	697,227.62	780,839.90	813,657.86	851,990.34	892,937.52	773,240.28	1,369,046.70	1,758,018.17	948,330.06	None.
<b>Deductions from gross income.</b>										
Hire of freight cars—Debit balance.				4,535.56				194,703.32	340,560.00	.....
Rent for leased roads.....		99,623.87	103,293.04	99,489.22	109,212.39	119,008.12	115,913.66	125,368.80		.....
Miscellaneous rents.....									29,940.07	.....
Interest on funded debt.....	511,836.66	537,350.82	572,296.13	603,162.60	617,870.00	778,826.67	1,072,423.21	1,188,601.24	195,850.53	\$28,700.00
Interest on unfunded debt.....	8,774.66	26,004.51	60,044.94	132,122.41	172,399.23	68,765.73	28,312.61	51,449.18	969,900.38	619,590.65
Miscellaneous income charges.....		4,967.12	5,900.69						5,719.19	.....
Total deductions.....	520,611.32	677,946.32	741,534.80	839,309.79	899,481.62	966,600.52	1,216,649.48	1,560,122.54	1,541,970.17	648,290.65
Income to profit and loss.....	176,616.30	102,893.58	72,123.06	12,680.55	6,544.10	193,860.24	152,397.22	197,895.63	593,640.11	648,290.65
<b>Profit and loss.</b>										
Balance at beginning of year.....	16,560.77	206,553.51	353,503.70	425,626.76	444,208.00	507,862.20	314,501.96	406,796.29	739,024.84	2,510,880.61
Balance transferred from income...	176,616.30	102,893.58	72,123.06	12,680.55	6,544.10	193,860.24	152,397.22	197,895.63	593,640.11	648,290.65
Delayed income credits.....	10,816.18									.....
Miscellaneous credits.....	29,619.12	44,056.61		5,900.69	70,198.30			134,332.92	2,279.42	124,336.94
Loss on retired road and equipment.										99,281.05
Delayed income debits.....	27,058.86						60,102.99			639.34
Miscellaneous debits.....										766.62
Total.....	206,553.51	353,503.70	425,626.76	444,208.00	507,862.20	314,501.96	406,796.29	739,024.84	147,664.15	3,135,471.33

APPENDIX 11.—Comparative balance sheet statement, Wheeling & Lake Erie Railroad Co., receiver's account.

[Figures in bold face represent debits.]

	June 30, 1909.	June 30, 1910.	June 30, 1911.	June 30, 1912.	June 30, 1913.	June 30, 1914.	June 30, 1915.
<b>DEBITS.</b>							
<i>Investment.</i>							
Investment in roed and equipment.....	\$2,144,559.50	\$5,343,480.97	\$5,374,672.05	\$5,930,491.80	\$8,701,395.43	\$9,841,053.46	\$8,802,897.86
Investment in affiliated companies.....	500,000.00	1,276,200.00	1,678,100.00	1,678,100.00	1,614,700.00	1,614,700.00	1,628,482.65
Total investments.....	2,644,559.50	6,619,680.97	7,052,772.05	7,608,591.80	10,316,095.43	11,455,753.46	10,431,380.51
<i>Current assets.</i>							
Cash.....	1,685,817.51	1,518,510.64	817,542.12	992,379.45	1,020,927.72	877,570.04	680,215.03
Special deposits.....					5,410.00	61,895.00	26,100.00
Loans and bills receivable.....							2,000.00
Traffic and car-service balances.....		3,087.58					
Due from agents and conductors.....		95,248.05	127,193.84	100,410.53	104,458.98	81,107.53	65,551.07
Miscellaneous accounts receivable.....	897,367.83	891,854.40	763,798.05	888,037.21	956,851.36	705,935.81	472,213.66
Material and supplies.....	419,082.43	366,835.66	428,219.04	420,857.51	586,400.99	643,400.14	471,546.55
Other current assets.....		69,931.13	180,459.72	97,426.59	57,328.51	7,481.39	13,421.24
Total current assets.....	3,002,267.82	2,945,467.46	2,317,212.77	2,499,111.29	2,731,375.56	2,377,389.91	1,731,047.55
<i>Deferred assets.</i>							
Working fund advances.....		9,767.78	9,807.78	9,807.78	10,439.33	10,535.93	757.65
Total deferred assets.....		9,767.78	9,807.78	9,807.78	10,439.33	10,535.93	757.65
<i>Unadjusted debits.</i>							
Rents and premiums paid in advance.....	5,585.88	4,194.76	5,162.11	4,797.66	3,706.34	4,507.35	10,620.28
Other unadjusted debits.....		73,773.96	86,087.19	157,078.64	97,931.07	32,138.62	30,627.83
Total unadjusted debits.....	5,585.88	77,968.72	91,249.30	161,876.30	101,637.41	36,645.97	41,248.11
Grand total.....	5,652,413.20	9,652,884.93	9,471,041.90	10,279,387.17	13,159,547.73	13,880,325.27	12,204,433.82

CREDITS.						
Stock.						
Long term debt.						
Capital stock.....						
Funded debt unmatured.....	2,334,500.00	2,059,500.00	1,835,500.00	1,611,500.00	1,394,722.96	5,012.89
Receiver's certificates.....	3,249,350.00	4,190,850.00	4,190,850.00	6,640,850.00	7,258,850.00	7,248,243.75
Total long term debt.....	3,249,350.00	6,250,350.00	6,026,350.00	8,252,350.00	8,653,572.96	7,253,262.64
Current liabilities.						
Loans and bills payable.....	36,000.00					
Traffic and car service balances payable.....		69,618.27	99,374.93	194,602.20	156,990.05	182,889.17
Audited accounts and wages payable.....	816,198.56	682,409.56	594,714.60	967,962.40	634,645.61	546,521.74
Miscellaneous accounts payable.....		46,420.74	40,158.55	50,141.59	43,850.64	36,872.97
Interest matured unpaid.....	80,530.00	100,715.50	65,290.00	5,410.00	61,895.00	26,100.00
Unmatured interest accrued.....	261,051.91	289,927.11	326,935.04	275,926.06	231,710.40	227,859.16
Other current liabilities.....		448,595.61	821.18	62,048.41	43,366.35	68,587.63
Total current liabilities.....	1,193,780.47	1,637,686.79	1,074,579.33	1,556,090.66	1,172,458.05	1,088,830.67
Unadjusted credits.						
Tax liability.....	176,678.11	204,277.16	231,772.73	236,800.12	241,685.10	220,720.53
Operating reserves.....						11,310.29
Accrued depreciation—Equipment.....	150,683.94	270,850.08	561,271.41	665,676.22	785,736.63	928,259.14
Other unadjusted credits.....	632,833.16	210,682.55	180,761.20	404,959.85	529,562.78	544,455.23
Total unadjusted credits.....	960,195.21	685,809.79	973,805.34	1,307,436.19	1,556,974.51	1,702,745.19
Corporate surplus.						
Additions to property through income and surplus.....	65,603.84	214,262.01	1,346,719.11	2,111,889.45	2,254,948.64	2,349,516.21
Funded debt retired through income and surplus.....	237,876.88	482,876.88	981,876.88	1,205,876.88	1,631,876.88	1,923,376.88
Total appropriated surplus.....	303,480.72	697,138.89	2,328,595.99	3,317,766.33	3,886,825.52	4,272,893.09
Profit and loss.....	54,398.20	334,399.46	239,878.16	1,274,095.55	1,389,505.77	2,118,297.77
Grand total.....	5,652,413.20	9,652,884.93	10,279,387.17	13,159,547.63	13,880,325.27	12,204,433.42

## APPENDIX

**income and profit and loss statements, Wheeling & Lake Erie Railroad Co., receiver's account.**  
debts.]

APPENDIX 13.—Comparative income and profit and loss statement, Pittsburgh Terminal Railroad & Coal Co.

[Figures in bold face represent debits.]

	June 30, 1909.	June 30, 1910.	June 30, 1911.	June 30, 1912.	June 30, 1913.	June 30, 1914.	June 30, 1915.
<b>Earnings.</b>							
Coal sales.....		\$1,292,366.22	\$1,615,696.63	\$2,062,058.69	\$2,800,012.15	\$3,227,115.92	\$1,914,979.24
Coal used in boilers.....		23,319.59	29,593.21	19,636.09	20,549.23	37,406.48	23,994.14
Interest and discount.....	\$2,633.13	1,435.07	5,022.48	6,940.89	10,412.26	19,085.45	21,751.75
Real estate (net earnings).....		43,808.89	43,739.28	41,903.50	41,071.39	41,975.78	45,800.24
Miscellaneous receipts.....		6.74	16.81	9.00	102.00	1,955.52	404.50
Rental, Pittsburgh Coal Co.....	320,833.34						
Profit on purchased coal.....				245.04			
Reloaded slack.....				5,049.00			
Total.....	323,466.47	1,360,936.51	1,694,013.45	2,122,960.43	2,872,147.03	3,327,549.15	2,006,929.87
Deficit transferred to profit and loss.....	94,828.56	431,094.77	345,765.16	274,269.08	158,489.27	29,537.22	196,917.75
	418,295.03	1,792,031.28	2,029,778.61	2,397,229.51	3,030,636.30	3,357,086.37	2,203,847.62
<b>Expenses.</b>							
Bond interest, first mortgage.....	212,073.73	200,353.34	196,842.42	196,750.00	196,750.00	196,100.00	196,100.00
Bond interest, first consolidated.....	171,000.00	171,000.00	171,000.00	171,000.00	171,000.00	171,000.00	171,000.00
Taxes.....	10,100.84	38,400.00	26,400.00	26,400.00	28,725.00	29,475.00	35,486.60
Legal expenses.....		1,265.08	1,420.70	1,200.00	1,497.51	7,052.30	3,269.35
Reopening property.....	21,885.88	15,591.31	18,045.24	13,977.62	33,969.52		
General agency expenses.....	3,234.58	55,673.78	50,318.38	51,991.62	52,794.78	61,977.27	68,487.01
Sales agency expenses.....		91,235.87	105,697.85	139,575.50	164,565.76	134,711.75	87,081.60
Coal production expense.....		1,109,068.18	1,332,778.67	1,628,171.11	2,167,645.44	2,526,327.55	1,497,121.48
Expense royalty.....		105,243.72	121,932.99	161,510.62	204,211.48	220,308.98	137,699.68
Insurance.....		4,200.00	2,655.36	2,663.67	2,688.60	2,688.60	2,688.60
Loss and damage.....			2,687.00	3,989.37	6,788.21	7,444.92	4,913.30
Total.....	418,295.03	1,792,031.28	2,029,778.61	2,397,229.51	3,030,636.30	3,357,086.37	2,203,847.62
<b>Profit and loss.</b>							
Balance at beginning of year.....	200,418.52	290,518.29	781,791.52	1,077,556.68	1,359,336.63	1,519,368.16	1,600,772.24
Balance transferred from income.....	94,828.56	431,094.77	845,765.16	274,269.08	158,489.27	29,537.22	196,917.75
Unclaimed wages.....	4,728.79						
Tax on capital stock (year 1908).....		10,178.46					
Adjustment in previous profit and loss balance.....							
State tax and penalties.....				7,510.87	1,542.26	7,140.20	0.78
Balance carried to balance sheet.....	290,518.29	781,791.52	1,077,556.68	1,359,336.63	1,519,368.16	1,600,772.24	1,800,850.78

APPENDIX 14.—Comparative balance sheet statement, Pittsburgh Terminal Railroad & Coal Co., since cancellation of lease of properties to Pittsburgh Coal Co.

[Figures in bold face represent debits.]

	June 30, 1909.	June 30, 1910.	June 30, 1911.	June 30, 1912.	June 30, 1913.	June 30, 1914.	June 30, 1915.
<b>Investments.</b>							
Property, live stock, etc.:							
Property and plant.....	\$17, 116, 332. 43	\$17, 116, 332. 43	\$17, 107, 488. 10	\$17, 101, 123. 07	\$17, 098, 302. 15	\$17, 122, 183. 80	\$17, 120, 650. 00
Live stock.....	15, 800. 00	27, 530. 50	32, 881. 15	35, 443. 15	38, 760. 65	41, 097. 65	36, 270. 65
Improvements and betterments.....	600. 00	112, 246. 67	275, 636. 58	414, 399. 80	609, 527. 98	803, 214. 49	863, 072. 27
Investment in affiliated companies:							
Pittsburgh Terminal Land Co.—Stock.....	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00
Pittsburgh Terminal Clay Mfg. Co.—Stock.....	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00	5, 000. 00
West Side Belt R. R. Co.—Stock.....	1, 065, 000. 00	1, 065, 000. 00	1, 065, 000. 00	1, 065, 000. 00	1, 065, 000. 00	1, 065, 000. 00	1, 065, 000. 00
Belt Line Railway.....	120, 000. 00	120, 000. 00	120, 000. 00	120, 000. 00	120, 000. 00	120, 000. 00	120, 000. 00
Mutual Supply Co.....	1, 000. 00	1, 000. 00	1, 000. 00	1, 000. 00	.....	.....	.....
West Side Belt R. R. Co.—Advances.....	2, 663, 143. 04	2, 664, 283. 40	2, 663, 143. 04	2, 663, 143. 04	2, 663, 143. 04	2, 663, 143. 04	2, 663, 143. 04
Advances to other subsidiary companies.....	586, 699. 46	444, 910. 56	443, 032. 20	380, 495. 33	373, 978. 25	387, 616. 25	391, 409. 30
Sinking funds.....	184, 800. 15	10, 646. 81	43, 569. 79	101, 859. 16	124, 147. 84	329, 905. 87	464, 399. 67
Deposits in lieu of mortgaged property sold.....	.....	.....	.....	6, 981. 61	3, 001. 18	4, 499. 22	7, 398. 89
Total.....	21, 763, 375. 08	21, 571, 950. 37	21, 761, 750. 86	21, 899, 445. 16	22, 105, 861. 09	22, 546, 660. 32	22, 741, 343. 82
<b>Current assets.</b>							
Cash.....	80, 775. 92	4, 045. 04	1, 307. 79	1, 694. 47	918. 50	1, 381. 77	18, 145. 47
Special deposits.....	2, 900. 00	2, 025. 00	3, 250. 00	1, 950. 00	1, 800. 00	575. 00	400. 00
Loans and bills receivable.....	108, 000. 00	108, 000. 00	108, 000. 00	108, 000. 00	108, 000. 00	108, 000. 00	108, 000. 00
Miscellaneous accounts receivable.....	124, 079. 98	363, 217. 11	193, 446. 07	168, 162. 38	148, 376. 55	239, 647. 94	8, 667. 93
Coal on hand.....	91. 86	.....	.....	.....	144. 81	7, 389. 95	2, 808. 27
Total.....	315, 847. 76	467, 287. 15	306, 003. 86	276, 427. 91	259, 239. 86	356, 994. 66	138, 021. 67
<b>Unadjusted debits.</b>							
Claims, etc.....	3, 640. 27	4, 080. 64	4, 458. 78	5, 210. 83	4, 602. 89	3, 640. 27	3, 640. 27
Securities issued or assumed—Unpledged: First mortgage bonds held for redemption, etc.....	2, 711, 000. 00	2, 711, 000. 00	2, 711, 000. 00	2, 711, 000. 00	2, 711, 000. 00	2, 711, 000. 00	2, 711, 000. 00
Land purchase account.....	25. 00	25. 00	219. 40	4, 319. 16	4, 319. 16	4, 319. 16	4, 319. 16
Other unadjusted debits.....	.....	.....	.....	.....	44, 728. 68	27, 434. 52	14, 528. 20
Total.....	2, 714, 665. 27	2, 715, 105. 64	2, 715, 678. 18	2, 720, 529. 99	2, 764, 648. 71	2, 746, 393. 95	2, 733, 485. 63
Grand total.....	24, 793, 888. 11	24, 754, 343. 16	24, 783, 432. 90	24, 896, 403. 06	25, 129, 749. 66	25, 650, 048. 93	25, 612, 851. 12

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Current liabilities.	Audited accounts and wages payable .....	54,355.74	433,259.92	490,076.56	446,536.98	418,235.86	772,154.07	1,695,426.66
	Miscellaneous accounts payable .....	2,854.61	97,213.56	91,734.90	190,469.38	241,903.04	124,065.89	56,143.29
	Interest matured unpaid .....	2,900.00	2,025.00	3,250.00	1,950.00	1,800.00	575.00	1,400.00
	Interest accrued .....	28,500.00	114,000.00	285,000.00	456,000.00	627,000.00	798,000.00	1,989,000.00
	Total .....	88,610.35	646,498.48	870,061.45	1,094,956.31	1,288,938.90	1,694,794.96	1,720,968.96
Unadjusted credits.	Tax liability .....	17,879.92	.....	1,765.91	12,087.24	17,081.82	28,581.74	28,581.74
	Accrued depreciation live stock .....	.....	2,120.64	4,659.20	7,408.90	9,341.60	11,348.79	13,061.78
	Other unadjusted credits .....	25,972.09	22,311.78	22,311.78	22,311.78	22,311.78	22,311.78	22,311.78
	Total .....	8,592.17	24,432.32	28,736.89	17,633.44	14,571.56	5,078.83	6,791.77
	Corporate surplus.							
Corporate surplus.	Sinking fund reserves .....	383,203.88	383,203.88	537,191.24	718,149.94	920,507.36	1,138,947.38	1,273,441.18
	Profit and loss .....	290,518.29	781,791.52	1,077,556.68	1,359,336.68	1,519,368.16	1,600,772.24	1,800,350.78
	Grand total .....	24,793,888.11	24,754,343.16	24,783,432.90	24,896,403.06	25,129,749.66	25,650,048.93	25,612,851.12

<sup>1</sup> Audited accounts payable contains an unpaid voucher of \$85,500, representing interest on first consolidated mortgage bonds for period May, 1909, to October, 1909. The entire amount of \$909,000 is composed of interest accrued on the same bonds. The sum of these, \$1,054,500, represents the interest accrued and unpaid on June 30, 1915, on the first consolidated mortgage bonds.

APPENDIX 15.—Comparative balance sheet statement, West Side Belt Railroad Co., corporate account.

[Figures in bold face indicate debits.]

	June 30, 1900.	June 30, 1901.	June 30, 1902.	June 30, 1903.	June 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	June 30, 1908.	Mar. 31, 1916.
<b>DEBIT.</b>										
<i>Investments.</i>										
Investment in road and equipment.	\$1,008,446.07	\$1,433,006.09	\$1,897,651.08	\$3,252,013.50	\$3,685,979.88	\$3,807,491.94	\$4,276,823.30	\$4,372,631.02	\$4,392,500.29	\$4,193,502.62
Investment in affiliated companies:										
Stocks.....				60,000.00	60,000.00	60,000.00	60,000.00	60,000.00	60,001.00	60,001.00
Advances.....				295.16	406.16	567.10	687.10	687.10	687.10	687.10
Total investments.....	1,008,446.07	1,433,006.09	1,897,651.08	3,312,308.66	3,746,385.04	3,868,059.04	4,337,510.40	4,433,318.12	4,453,188.39	4,254,190.72
<i>Current assets.</i>										
Cash.....	8,145.83	31,693.33	39,164.07	33,665.74	47,834.06	18,712.42	23,222.21	12,716.90	2,795.61	.....
Special deposits.....								125.00	1,636.82	.....
Traffic and car-service balances.....	734.93	2,287.84	5,861.41	11,796.03	25,706.52	35,223.69	5,670.88	7,218.12	10,647.82	.....
Due from agents and conductors.....			142.84	55.18		2,838.70	4,050.28	17,706.34	8,041.26	.....
Miscellaneous accounts receivable..	1,755.80	1,023.48	9,478.48	6,670.26	6,845.68	2,314.20	21,117.23	9,332.08	15,984.94	1,238.84
Material and supplies.....			144.35		8,248.63	1,379.98				.....
Other current assets.....								5,929.05		.....
Total current assets.....	10,636.56	35,004.65	54,781.15	52,187.21	88,634.89	60,468.99	54,060.60	53,026.49	39,106.45	2,475.66
<i>Deferred assets.</i>										
Working fund advances.....			100.00							.....
Other deferred assets.....									16,389.80	.....
Total deferred assets.....			100.00						16,389.80	.....
<i>Unadjusted debits.</i>										
Rents and premiums paid in advance.....							2,271.70			.....
Other unadjusted debits.....	2,596.66	2,596.66		318.62	51.88	2,840.02	213.83			.....
Total unadjusted debits.....	2,596.66	2,596.66		318.62	51.88	2,840.02	2,485.53			.....
Grand total.....	1,021,679.29	1,470,607.40	1,952,532.23	3,364,814.49	3,835,071.81	3,931,368.05	4,394,066.53	4,486,344.61	4,508,684.64	4,256,666.38

CREDITS											
Stock.											
Long term debt.											
Capital stock.....	600,000.00	1,000,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00	1,080,000.00
Funded debt unmatured.....											
Nonnegotiable debt to affiliated companies.....	338,500.00	401,500.00	514,833.33	434,783.33	435,632.93	443,783.33	1,000,000.00	1,000,000.00	1,000,000.00	383,000.00	
			890.01	833,142.67	1,333,529.49	2,329,515.19	1,980,143.04	2,021,143.04	2,046,143.04	2,663,143.04	
Total long term debt.....	338,500.00	401,500.00	515,723.34	1,267,926.00	1,769,162.42	2,773,298.52	2,980,143.04	3,021,143.04	3,046,143.04	3,046,143.04	
Current liabilities.											
Loans and bills payable.....	10,500.00		373,000.00	795,627.77	882,373.11	41,600.00	168,363.13	168,363.13	106,000.00	106,000.00	
Traffic and car-service balances payable.....						33,029.05	6,144.18		37,980.36		
Audited accounts and wages payable.....						44,196.48	52,410.56	54,062.03	155,802.61	161,116.29	
Miscellaneous accounts payable.....	2,184.23	2,677.36	6,882.87	134,313.34	55,717.40		5,599.25	3,820.98	15.58		
Interest matured unpaid.....				3,529.96	17,536.23			125.01	400.00	108.00	
Unmatured interest accrued.....	6,076.68	7,160.00	8,160.00	6,333.32	6,333.28	6,383.33	6,383.33	6,548.33	6,234.30		
Total current liabilities.....	18,760.91	9,837.36	388,042.87	939,804.39	961,959.62	125,208.86	238,900.45	232,910.48	306,432.85	267,222.29	
Deferred liabilities.											
Other deferred liabilities.....							90.00	75.00	65.00	32,009.52	
Unadjusted credits.											
Tax liability.....					3,000.00		1,404.10	3,938.07	10,729.95		
Accrued depreciation—Equipment.....									2,044.77	442.24	
Other unadjusted credits.....				335.34	8,129.21	1,339.94	1,268.95	2,999.05	1,340.95		
Total unadjusted credits.....				335.34	11,129.21	1,339.94	2,673.05	6,937.12	14,115.67	442.24	
Profit and loss.....	64,418.38	59,360.04	81,233.98	76,748.76	12,820.56	48,479.27	92,249.99	145,269.97	61,928.08	169,150.71	
Grand total.....	1,021,679.29	1,470,697.40	1,952,532.23	3,364,814.49	3,885,071.81	3,981,368.05	4,394,056.53	4,486,344.61	4,508,684.64	4,256,666.38	

APPENDIX 16.—Comparative income and profit and loss statements, West Side Belt Railroad Co., corporate account.

[Figures in *italics* represent credits; those in bold face, debits.]

	June 30, 1900.	June 30, 1901.	June 30, 1902.	June 30, 1903.	June 30, 1904.	June 30, 1905.	June 30, 1906.	June 30, 1907.	June 30, 1908.	June 30, 1908. to Mar. 31, 1916.
<b>Operating income.</b>										
Railway operating revenues:										
Freight revenue—										
Coal.....	\$23,584.61	\$24,028.18	\$29,347.24	\$56,699.03	\$166,284.15	\$219,807.60	\$208,270.02	\$316,458.07	\$222,556.72	\$4,887.81
Other.....	311.86	333.30	1,212.35				44,371.98			
Passenger revenue.....	4,213.11	4,065.70	4,086.26	2,679.70	325.20	7,815.24	8,147.61	8,931.33		
Express revenue.....							816.99	868.37		
All other revenue.....	1,124.45	714.00	1,030.97			131.57	446.39	15,236.84	707.02	89.54
Total railway operating revenues.....	29,234.03	29,141.18	35,676.82	59,378.73	166,609.35	227,754.41	262,062.99	311,021.43	223,263.74	4,298.27
Railway operating expenses:										
Maintenance of way and structures.....									100,924.07	367.06
Maintenance of equipment.....									77.10	21,765.20
Traffic.....									3,887.33	8.63
Transportation.....									67,483.19	162.77
General.....									18,720.30	1,335.07
Total railway operating expenses.....	19,735.64	17,485.19	24,869.85	34,272.34	130,727.86	296,583.49	145,321.65	119,119.72	191,091.99	22,904.61
Net revenue from railway operation.....	9,498.39	11,655.99	10,806.97	25,106.39	35,881.49	68,829.08	116,731.34	191,901.71	32,171.75	27,202.88
Railway tax accruals.....	3,746.43	2,431.31	2,508.72	2,948.44	5,437.37	7,614.80	6,000.00	7,813.14	7,189.43	
Total operating income.....	5,751.96	9,224.68	8,298.25	22,157.95	30,444.12	76,443.88	110,731.34	184,088.57	24,982.32	27,202.88
<b>Nonoperating income.</b>										
Hire of freight cars.....			713.11	2,356.27	56,666.28	34,918.00	58,910.34		31,418.74	
Joint facility rent income.....	200.00	200.00	200.00	200.00	200.00					
Miscellaneous rent income.....	200.50	1,097.00	2,369.74	2,919.20	2,169.37	2,001.83	1,883.16	2,183.03	2,331.41	1,226.26
Miscellaneous income.....				158.65	45.74					
Total nonoperating income.....	400.50	1,297.00	3,282.85	5,634.12	59,081.39	36,919.83	60,793.50	2,188.03	33,750.15	1,226.26
Gross income.....	6,152.46	10,521.68	11,581.10	27,792.07	89,525.51	89,524.05	171,524.84	186,276.60	58,732.47	28,429.14

<i>Deductions from gross income.</i>											
Hire of freight cars—Debit balance.....					894.18	63,483.60	11,638.23	176,884.15	106,514.44	168,169.67	3,024.03
Joint facility rents.....										11,792.16	116.55
Interest on funded debt.....	15,580.00	15,580.02	15,579.99		7,150.00	3,574.98	19,137.55	19,150.00	19,150.00	18,724.45	
Interest on unfunded debt.....								1,837.26	8,592.18	8,392.78	
Total deductions from gross income.....	15,580.00	15,580.02	15,579.99		8,044.18	67,058.58	30,775.78	197,821.41	138,266.62	142,079.06	3,141.18
Net income.....	9,427.54	5,058.34	3,998.89		19,747.89	22,466.93	70,299.83	26,296.57	53,019.98	88,346.59	81,570.32
Income balance transferred to profit and loss.....	9,427.54	5,058.34	3,998.89		19,747.89	22,466.93	70,299.83	26,296.57	53,019.98	88,346.59	81,570.32
<i>Profit and loss.</i>											
Balance at beginning of year.....	73,845.92	64,418.38	59,360.04		31,233.98	76,748.76	12,820.56	48,479.37	92,249.99	145,269.97	61,928.08
Balance transferred from income.....	9,427.54	5,058.34	3,998.89		19,747.89	22,466.93	70,299.83	26,296.57	53,019.98	88,346.59	81,570.32
Miscellaneous credits.....					1,839.72		9,000.00	167,064.53		4.70	1,151.81
Donations.....			200.00								
Loss on retired road and equipment.....			86,395.13		86,395.13	86,395.13					88,509.29
Miscellaneous debits.....								38.70			167,150.99
Profit and loss balance carried to balance sheet.....	64,418.38	59,360.04	31,233.98		76,748.76	12,820.56	48,479.37	92,249.99	145,269.97	61,928.08	169,150.71

APPENDIX 17.—Comparative balance sheet statement, West Side Belt Railroad Co., receiver's account.

[Figures in bold face represent debits.]

	June 30, 1908.	June 30, 1909.	June 30, 1910.	June 30, 1911.	June 30, 1912.	June 30, 1913.	June 30, 1914.	June 30, 1915.	Mar. 31, 1916.
DEBITS.									
Investments.									
Investment in road and equipment.....	\$40.78	\$108,265.75	\$579,963.58	\$734,897.43	\$745,623.43	\$775,857.13	\$810,296.56	\$833,453.88	\$843,313.38
Current assets.									
Cash.....	20,512.35	470,413.55	78,559.47	82,718.55	106,354.53	53,267.34	58,110.53	36,029.66	231,558.48
Special deposits.....		25.00	450.00	225.00	100.00	300.00	500.00	2,985.00	875.00
Traffic and car-service balances.....	581.86		.70	3.78	15.16	3,977.10	39,570.29	7,657.01	
Due from agents and conductors.....	1,959.90	15,505.20	21,019.68	12,078.64	3,367.82	9,527.97	5,746.35	4,620.01	9,064.36
Miscellaneous accounts receivable.....	1,048.92	48,188.51	39,300.99	118,284.49	188,743.94	269,675.68	315,730.31	234,385.75	244,212.26
Material and supplies.....	3,425.74					19,126.69	36,307.79	54,067.44	34,438.52
Other current assets.....	3,469.20	494.40	3,866.40	4,201.35	4,803.65	5,879.20	8,442.54	3,942.34	56.70
Total current assets.....	30,997.97	534,626.66	143,197.24	217,511.81	303,390.10	361,553.98	464,407.81	343,687.21	520,205.32
Deferred assets.									
Other deferred assets.....		24,656.25	29,908.35	35,530.76	35,512.85	35,507.60	35,507.16	35,502.53	32,009.52
Unadjusted debits.									
Rents and premiums paid in advance.....				888.58	741.72	601.28	508.70	80.07	244.15
Discount on funded debt.....						13,095.23			
Other unadjusted debits.....	609.26	11,816.97	9,731.93	12,917.77	9,212.83	11,382.15	30,587.48	18,204.54	3,167.28
Total unadjusted debits.....	609.26	11,816.97	9,731.93	13,806.35	9,954.55	25,078.66	31,091.18	18,284.61	3,411.43
Grand total.....	31,648.01	679,365.63	762,801.10	1,001,746.35	1,094,480.93	1,197,997.37	1,341,302.71	1,230,928.23	1,396,939.65
CREDITS.									
Long term debt.									
Receiver's certificates.....		515,000.00	515,000.00	700,000.00	700,000.00	714,285.71	714,285.71	714,285.71	714,285.71
Current liabilities.									
Traffic and car-service balances payable.....	2,196.82	11,013.04	16,926.02	22,715.72	7,149.14			11,099.60	62,117.80
Audited accounts and wages payable.....	8,016.63	148,589.42	147,035.80	183,810.58	234,881.46	272,741.12	323,941.14	219,278.66	188,508.12
Miscellaneous accounts payable.....	265.69	1,148.48	826.41	726.94	1,116.61	1,333.91	2,098.46	1,638.35	1,768.85

Interest matured unpaid.....	429.55	26.00	450.00	225.00	100.00	300.00	500.00	2,965.00	575.00
Unmatured interest accrued.....	.....	9,018.33	8,983.33	9,853.33	9,853.33	9,954.75	9,954.75	9,954.75	15,881.53
Unmatured rents accrued.....	.....	.....	.....	.....	.....	.....	.....	.....	2,110.15
Other current liabilities.....	4,000.00	2.50	15.00	47.50	60.00	80.00	105.00	87.50	70.00
Total current liabilities.....	14,908.74	169,796.77	174,240.56	217,408.07	253,190.54	284,409.78	336,599.35	245,043.86	271,331.44
Deferred liabilities.									
Other deferred liabilities.....	16,389.80	.....	.....	.....	125.00	125.00	125.00	125.00	.....
Unadjusted credits.									
Tax liability.....	83.84	6,660.46	6,872.30	13,621.95	8,941.34	3,373.29	4,827.34	3,087.49	2,570.71
Accrued depreciation—Equipment.....	10.01	464.81	919.61	2,413.25	3,908.89	5,400.53	6,942.53	8,369.19	9,620.37
Other unadjusted credits.....	.....	2,358.50	3,500.00	3,000.00	157.57	309.67	4,396.46	1,208.30	19,438.06
Total unadjusted credits.....	78.85	9,483.77	11,291.91	19,035.20	13,005.80	9,083.49	16,166.33	12,664.98	31,629.14
Corporate surplus.									
Additions to property through income and surplus.....	40.78	5,296.03	7,689.56	51,640.33	62,349.62	82,813.67	117,253.10	138,304.49	148,163.99
Profit and loss.....	382.02	20,210.94	54,579.07	13,662.75	65,809.97	107,279.72	156,873.22	120,504.19	233,529.37
Total corporate surplus.....	422.80	14,914.91	62,268.63	65,303.08	128,159.59	190,093.39	274,126.32	258,808.68	381,693.36
Grand total.....	31,648.01	679,365.83	762,801.10	1,001,746.35	1,094,480.93	1,197,997.37	1,341,302.71	1,230,928.23	1,398,939.65

APPENDIX 18.—Comparative income and profit and loss statements, West Side Belt Railroad Co., receiver's account.

[Figures in bold face represent debits.]

	June 22, 1908, to June 30, 1908.	June 30, 1909.	June 30, 1910.	June 30, 1911.	June 30, 1912	June 30, 1913.	June 30, 1914.	June 30, 1915.	July 1, 1915, to Mar. 31, 1916.
<b>Operating income</b>									
Railway operating revenues:									
Freight revenue—									
Coal.....	\$5,658.58	\$98,874.64	\$175,669.01	\$215,887.67	\$292,405.03	\$355,797.28	\$372,582.60	\$247,800.12	\$106,249.82
Ore.....				49,511.52	67,105.56	42,307.89	53,155.98	46,081.46	46,739.67
Other.....	1,922.27	121,774.89	207,400.27	113,235.51	112,986.36	133,198.76	121,253.78	87,913.47	306,963.79
Passenger revenue.....			1,006.32	6,685.43	7,939.68	9,241.41	9,462.78	6,776.27	5,303.28
Express revenue.....			9.58	690.44	977.85	1,169.69	1,079.90	652.05	638.59
All other revenue.....	1.33	1,180.35	741.21	1,344.26	2,903.29	6,029.65	7,803.75	3,471.90	6,520.34
Total railway operating revenues.....	7,582.18	221,829.88	384,925.39	387,354.83	484,317.77	547,744.68	565,338.79	392,695.27	472,420.49
<b>Railway operating expenses:</b>									
Maintenance of way and structures.....	1,750.11	30,596.77	36,195.47	74,229.56	64,504.07	91,394.14	82,824.24	39,963.64	35,144.16
Maintenance of equipment.....	27.44	20,349.57	67,679.05	70,566.96	69,509.31	99,311.88	101,434.18	63,826.42	30,388.33
Traffic.....	75.26	4,979.71	5,812.18	9,220.59	9,608.52	10,182.16	11,793.38	12,382.40	9,349.31
Transportation.....	2,060.37	58,073.08	66,354.99	78,138.56	94,890.55	106,737.93	120,258.08	95,028.11	94,934.60
General.....	312.98	27,863.92	18,629.58	35,946.92	35,239.46	30,876.90	27,060.86	28,212.24	20,844.61
Total railway operating expenses.....	4,226.16	141,863.05	194,671.27	268,102.59	273,741.91	338,503.01	343,370.84	239,412.81	190,661.01
Net revenue from railway operation.....	3,356.02	79,966.83	190,154.12	119,252.24	210,575.86	209,241.67	221,967.95	153,282.46	281,759.48
Railway tax accruals.....	160.00	7,184.50	4,800.00	4,800.00	1,200.00	1,200.00	2,154.29	3,600.00	2,700.00
Total operating income.....	3,196.02	72,782.33	185,354.12	114,452.24	209,375.86	208,041.67	219,813.66	149,682.46	279,059.48
<b>Nonoperating income</b>									
Hire of freight cars—Credit balance.....	1.10								
Rent from locomotives.....								5,123.34	4,929.90
Rent from work equipment.....								6.00	38.53
Miscellaneous rent income.....		2,629.70	1,937.30	1,928.00	2,824.33	2,402.33	2,404.79	2,682.69	1,832.40
Income from unfunded securities and accounts.....						1,504.81	963.48	879.59	2,078.84
Total nonoperating income.....	1.10	2,629.70	1,937.30	1,928.00	2,824.33	3,907.14	3,368.27	8,691.62	8,879.67
Gross income.....	3,197.12	75,412.03	187,291.42	116,380.24	212,200.19	211,948.81	223,181.93	158,374.08	287,939.15

<i>Deductions from gross income.</i>										
Uncollectible railway revenues.....	2,344.77	48,691.08	57,576.71	45,740.54	77,981.28	72,862.17	54,528.34	90,898.88	101,005.25	183.12
Hire of freight cars—Debit balance.....		8,506.03	8,516.08	9,332.08	9,404.66	9,490.94	9,518.20	11,215.06	10,159.88	
Rent for locomotives.....								9,340.64	7,005.47	
Joint facility rents.....								230.00	230.00	
Miscellaneous rents.....	429.55	19,303.70	19,240.00	19,180.00	19,150.00	19,150.00	19,150.00	19,150.00	14,362.51	
Interest on funded debt.....		14,248.33	24,776.09	37,257.28	40,738.90	42,071.42	42,857.14	42,857.14	82,142.83	
Interest on unfunded debt.....						1,190.48	13,095.23			
Amortization of discount on funded debt.....						5,260.00				
Miscellaneous income charges.....										
Total deductions from gross income.....	2,774.32	90,749.74	110,107.88	113,345.79	149,343.68	150,015.01	139,149.00	173,691.72	165,089.06	
Net income.....	422.80	15,837.71	77,183.54	3,034.45	62,856.51	61,933.80	84,032.93	15,317.64	122,850.09	
<i>Disposition of net income.</i>										
Income appropriated for investment in physical property.....	40.78	5,255.25	2,393.53	43,950.77	10,709.29	20,464.05	34,439.43	21,051.39	9,859.50	
Total appropriation of income.....	40.78	5,255.25	2,393.53	43,950.77	10,709.29	20,464.05	34,439.43	21,051.39	9,859.50	
Income balance transferred to profit and loss.....	382.02	20,592.96	74,790.01	40,916.82	52,147.22	41,469.75	49,593.50	36,369.03	112,990.59	
<i>Profit and loss.</i>										
Balance at beginning of year.....			20,210.94	54,579.07	13,662.75	65,809.97	107,279.72	156,873.22	120,504.19	
Balance transferred from income.....		382.02	74,790.01	40,916.82	52,147.22	41,469.75	49,593.50	36,369.03	112,990.59	
Unrefunded overcharges.....									125.00	
Miscellaneous credits.....									47.50	
Loss on retired road and equipment.....									137.91	
Profit and loss balance carried to balance sheet.....	382.02	20,210.94	54,579.07	13,662.75	65,809.97	107,279.72	156,873.22	120,504.19	233,529.37	

**APPENDIX 19.**

[Circular issued by Vermilye & Co.]

**BOSTON**

**NEW YORK**

**BALTIMORE**

**VERMILYE & CO.**

**Established 1832.**

**Members of  
Boston and New York  
Stock Exchanges**

**BANKERS.**

**Dealers  
in  
Government Bonds**

*The Wabash Pittsburgh Terminal Railway Co. First Mortgage Four Per Cent Fifty-Year Gold Bonds.*

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Dated May, 1904. Due June 1, 1954. Interest Payable in New York June 1 and December 1. Authorized, \$50,000,000; outstanding, \$25,000,000. Tax exempt in Pennsylvania.

Application will be made in due course to list these bonds on the New York Stock Exchange.

Coupon Bonds of \$1,000 each with provision for registration of principal and exchangeable for full registered bonds of \$1,000 and multiples. First Coupon represents one year's interest and is payable June 1, 1905. The Mercantile Trust Co., New York, Trustee.

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The Wabash Pittsburgh Terminal Railway Co. controls a terminal and railway system between Pittsburgh and Toledo, 520 miles, owning also valuable traffic contracts with the Wabash Railroad and the Carnegie Steel Co., under which it is guaranteed important tonnage and revenues. The lien of the First Mortgage Bonds covers all of this property, either by direct ownership or by pledge of the contracts and of the securities representing control.

The direct first lien includes the large new passenger station in the heart of the business district of Pittsburgh and extensive and exceedingly valuable terminal facilities in that city and the Pittsburgh traffic district, together with the main line railway extending to near Jewett, O., 60 miles. The whole road, with the long and costly double-tracked steel bridges across both the Monongahela and Ohio Rivers, and long tunnels securing low grades, is built for second track now laid for some distance out of Pittsburgh. Near Jewett, connection is made with the Wheeling & Lake Erie Railroad by which the Terminal system is extended to Toledo, giving direct connection with the Wabash and the entire Gould Railway system of about 15,000 miles.

The Wheeling & Lake Erie Railroad is controlled by the Terminal Company through ownership of 51.73 per cent of its \$37,000,000 capital stock, and the stocks representing this majority interest are deposited under pledge with the trustee of the First Mortgage. The Company has also deposited traffic and trackage contracts with the Wabash and Wheeling & Lake Erie Railroads whereby 25 per cent of the gross revenues of each of those companies derived east of Chicago and St. Louis from all classes of traffic, both east and west bound, interchanged with the Terminal Company, or passing over its road, is pledged to meet any deficiency of income of the Terminal

Company necessary to pay interest on both its First and Second Mortgage Bonds. The traffic contract with the Carnegie Steel Co. guaranteeing to the Terminal Company an important percentage of its traffic and that of its controlled or affiliated companies is also pledged under the First Mortgage.

The Company has recently acquired control of the Pittsburgh Terminal Railroad & Coal Company owning the West Side Belt Railroad in Pittsburgh, an exceedingly important connecting railway of about 21 miles, reaching important industries, and connecting with the railroad systems entering the city. The Terminal Company is also further enlarging its freight terminals and completing connections with the Carnegie Steel Works and other important freight producing industries of the Pittsburgh manufacturing district.

The unappropriated First Mortgage bonds are reserved under careful restrictions of the mortgage for new property and acquisitions, but the amount issued cannot exceed \$35,000,000 until the Terminal Company earns and pays interest on both the First and Second Mortgage bonds. The Second Mortgage is for \$20,000,000 all now outstanding, this junior security being an income issue until June, 1910. The Wabash Railroad Company owns the entire authorized \$10,000,000 capital stock of the Terminal Company (less Directors' qualifying shares) and thus secures control of an extension into Pittsburgh and exceedingly valuable terminals in the greatest freight producing centre in the world, which in recent years has suffered from inadequate railway facilities.

It will be seen that the Terminal Company owns a terminal system and a connection into Pittsburgh probably impossible to duplicate. It is in excellent position to move its share of the immense tonnage of the district, and with its contracts is assured of a large and profitable traffic from the beginning.

We consider these First Mortgage bonds well secured.

NOVEMBER, 1904.

48 I. C. C.

**APPENDIX 20.**—*Copy of Mercantile-Equitable Exhibit LL, filed in foreclosure proceeding of Wheeling & Lake Erie R. R. Co., showing copy of circular issued by Wm. A. Read & Co. in offering for sale the First Mortgage Bonds of The Wabash Pittsburgh Terminal Railway Co.*

**WM. A. READ & CO.,**

**Bankers, 25 Nassau Street, New York, Boston, Baltimore, Chicago. Members of the New York and Boston Stock Exchanges.**

**THE WABASH PITTSBURGH TERMINAL RAILWAY CO.**

**First Mortgage 4 Per Cent. 50-Year Gold Bonds. Dated May, 1904. Due June 1, 1954.**

**Interest Payable in New York June 1 and December 1.**

**Authorized, \$50,000,000; outstanding, \$27,000,000.**

**Tax exempt in Pennsylvania.**

**Listed on the New York Stock Exchange.**

**Coupon Bonds of \$1,000 each with provision for registration of principal and exchangeable for fully registered bonds of \$1,000 and multiples.**

**The Mercantile Trust Company, New York, Trustee.**

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**The Wabash Pittsburgh Terminal Railway is the terminal railway extension into Pittsburgh for the Wabash Railroad and the entire Gould System of 15,000 miles, and these bonds are secured by the direct first mortgage lien on—**

**(1) Exceedingly valuable and extensive passenger and freight railway terminal and terminal facilities and real estate in the heart of the City of Pittsburgh and surrounding traffic district.**

**(2) A high-class main line railway with 90-pound rail and good ballast extending from Pittsburgh to near Jewett, Ohio, 60 miles, the junction with the Wheeling & Lake Erie Railroad, all located in and bisecting the Pittsburgh district.**

**The bonds are further secured—**

**(3) By pledge of the controlling interest (51.73 %) in the \$37,000,000 capital stock of the connecting Wheeling & Lake Erie Railroad, which owns 465 miles of railway extending from Wheeling and Jewett to Cleveland and Toledo, Ohio, with branches connecting with the Wabash Railroad at Toledo.**

**(Between “(3)” and “(4)” in original printed circular is a map of the Wabash Pittsburgh Terminal Railway and Wabash Railroad Systems; also map showing the West Side Belt R. R. and Pittsburgh Terminal R. R. & Coal Co.’s Coal Fields.)**

**(4) By pledge of valuable traffic contracts with the Wabash and Wheeling & Lake Erie Railroads, whereby each of these companies covenants to turn over to the Terminal Company 25 per cent of its gross revenues derived east of Chicago and St. Louis, from all classes of traffic both east and west-bound, interchanged with the Terminal Company or passing over its road, to meet any deficiency of income necessary to pay interest on both the First and Second Mortgage Bonds of the Terminal Company.**

**(5) By pledge of leaseholds, leases and contracts, including the valuable 20-year contract with the Carnegie Steel Company, under which the Terminal Company is guaranteed an important percentage of the traffic of the Carnegie Company and of its controlled or affiliated corporations.**

The First Mortgage that covers, by direct ownership or by pledge of the securities representing control, terminals and terminal facilities in the Pittsburgh district practically impossible to duplicate, and a railway system of 525 miles, affording a direct route between Pittsburgh and Toledo and Lake Erie, and thence (via the Wabash) to Chicago and St. Louis. This through route has the shortest line and the lowest grades to some of those cities, and to all the points reached compares favorably with any competing railroad. On the Terminal Railway engines haul the heavy load of 2,800 tons to 3,000 tons per engine, and with grade revisions on the Wheeling & Lake Erie now being worked out, the system will have more favorable operating conditions than competitive lines between Pittsburgh and Chicago, and should be able to handle maximum trainloads at a minimum cost per ton-mile.

This railway and terminal property has been most expensive to construct and acquire, the cost being justified by the importance of securing for the Gould Railway System, the means of sharing in the traffic of the Pittsburgh district, which has the heaviest tonnage of any terminal railway district in the world, reported as 76,000,000 tons in 1904, exclusive of 11,500,000 tons of river traffic. It has been estimated that if the Wabash Pittsburgh Terminal Railway Company secures only about 5,500,000 tons of the Pittsburgh district traffic it will much more than earn the interest on the outstanding First Mortgage Bonds. It is, however, already guaranteed 4,000,000 tons by the contract with the Pittsburgh Coal Company, and is assured a large annual tonnage from the Carnegie Steel Company, in addition to and irrespective of its revenues to be derived from passenger business or general traffic not guaranteed under contract, which it may reasonably expect to divide with other competing systems.

The terminal property at Pittsburgh is of the most expensive character, including an imposing eight-story stone and steel passenger station in the heart of the business district of the city, more advantageously located than any other railway station there, with freight yards, both adjoining and along the Monongahela River front, together with a large amount of other valuable real estates. The railway leaves the station train shed on an elevated structure, crosses the Monongahela River on one of the longest bridges of its type in the world, then penetrates Mt. Washington, on the west side of the river, with a 3,300-foot double-tracked tunnel. The maximum grade on the line through to Jewett is less than 1 per cent (0.70% compensated), and there are no curves exceeding three degrees. This grade and alignment is exceedingly favorable considering the character of the country, and has been secured by a series of viaducts, steel bridges, trestles, and about 17 tunnels (aggregating 3.8 miles in length), all built for second track, which is now laid for some distance out of Pittsburgh, and is to be extended through to the terminus.

The accompanying map shows the location of the Wabash Pittsburgh Terminal Railway and its controlled Wheeling & Lake Erie and West Side Belt Railroads, together with the Wabash Railroad and the Missouri Pacific Railway in part.

Control of the Pittsburgh Terminal Railroad & Coal Company, which has been acquired by the Wabash Pittsburgh Terminal Railway Company, materially improves its traffic position, the former company controlling the West Side Belt Railroad, an exceedingly important terminal line of about 30 miles, connecting with all the railroads entering Pittsburgh from the south side, and affording the Terminal Company means of reaching the steel works at Clairton and the Carnegie Works at Homestead, branches to effect these connections being now under construction. The Pittsburgh Terminal Railroad & Coal Company also owns valuable coal lands, now leased to the Pittsburgh Coal Company for \$350,000 a year, and a royalty on all coal mined, which company also agrees to turn over to the Wabash Pittsburgh Terminal Railway 4,000,000 tons of coal a year for transportation.

The Wabash Pittsburgh Terminal Company has outstanding \$27,000,000 First Mortgage 4 Per Cent Bonds, \$20,000,000 Second Mortgage 4 Per Cent Bonds (an income 48 I. C. C.

issue until 1910), and also \$10,000,000 Capital Stock, the last named all owned (except directors' qualifying shares) by the Wabash Railroad Company, which has made further large cash investments and advances to complete the Terminal Railway Company's railway and terminal facilities. The unappropriated First Mortgage Bonds are reserved under careful restrictions of the mortgage for new property and acquisitions, but the amount issued can not exceed \$35,000,000 until the Terminal Company earns and pays interest on its outstanding First and Second Mortgage Bonds for one year.

Control of the Wabash Pittsburgh Terminal Railway thus gives the Wabash Railroad and the Gould System ownership of an extension into Pittsburgh, with exceedingly valuable terminals in the greatest freight-producing center in the world, which in recent years has suffered from inadequate railway facilities. The manner of this control interweaves the interests of the Wabash Railroad, the Wheeling & Lake Erie, and the Wabash Pittsburgh Terminal Railway Company as one system, and this control is not likely to be parted with under any conceivable circumstances.

It will be seen that the Terminal Company owns a terminal system and a connection into Pittsburgh probably impossible to duplicate. It is in excellent position to move its share of the increased tonnage of the district, and with its contracts is assured of a large and profitable traffic from the beginning.

We consider these first mortgage bonds well secured.

JUNE, 1905.

48 I. C. C.

**APPENDIX 21.**—*Copy of Mercantile-Equitable Exhibit II, filed in the foreclosure proceeding of Wheeling & Lake Erie R. R. Co., showing copy of application of The Wabash Pittsburgh Terminal Ry. Co. to list its bonds on the New York Stock Exchange.*

A-3037.

**COMMITTEE ON STOCK LIST, NEW YORK STOCK EXCHANGE. THE WABASH PITTSBURGH TERMINAL RAILWAY CO. FIRST MORTGAGE FOUR PER CENT FIFTY-YEAR BONDS. SECOND MORTGAGE FOUR PER CENT FIFTY-YEAR BONDS.**

**NEW YORK, February 18, 1905.**

The Wabash Pittsburgh Terminal Railway Company respectfully applies to have the following-described bonds issued by it placed on the regular list of the New York Stock Exchange, viz: \$25,000,000 par value of its First Mortgage Four Per Cent Fifty-Year Gold Bonds, numbered from 1 to 25,000, both inclusive, and \$20,000,000 par value of its Second Mortgage Four Per Cent Fifty-Year Gold Bonds, numbered from 1 to 20,000, both inclusive, and both issues of bonds having coupons attached maturing June 1, 1905, and subsequently.

The first mortgage bonds are issued under and secured by a first mortgage dated May 10, 1904, executed by the Wabash Pittsburgh Terminal Railway Company to The Mercantile Trust Company of New York, as Trustee. The bonds are payable June 1, 1954, in the City of New York, in gold coin of the United States, of the present standard of weight and fineness. The bonds bear interest from June 1, 1904, at the rate of four per cent per annum, payable on June 1 and December 1; the first coupon, however, is payable on June 1, 1905, and represents full interest for the preceding year; both principal and interest of the bonds are payable without deduction for any tax or taxes which this Company may be required to pay or retain therefrom under or by reason of any present or future law of the United States, or of any state, county, or, municipality thereof. The bonds are in coupon form with power of registration as to principal, and may be converted into registered bonds without coupons of the denominations of \$1,000 and such multiples thereof as the Board of Directors or Executive Committee of this Company may from time to time prescribe. The registered bonds are exchangeable in turn for coupon bonds.

The second mortgage bonds are issued under and secured by a mortgage dated May 10, 1904, executed by The Wabash Pittsburgh Terminal Railway Company to The Equitable Trust Company of New York, as Trustee. The bonds are payable June 1, 1954, in the City of New York, in gold coin of the United States of the present standard of weight and fineness. The bonds bear interest from June 1, 1904, at the rate of four per cent per annum, payable on June 1 and December 1; the payment of the interest maturing on December 1, 1904, and all succeeding interest due dates, to and including June 1, 1910, is, however, payable only out of the net earnings and revenues of this Company which are defined in Article 3, Section 1 of said mortgage, as follows:

Each of the interest installments during the period above mentioned is payable only out of the net earnings and revenues of the Railway Company acquired during the period to which said interest installments respectively relate, it being expressly understood and agreed by and between the parties hereto and all the holders of the bonds issued hereunder that the term "net earnings and revenues" herein contained shall be held and taken to signify and describe the amount or sum determined by

the Board of Directors of the Railway Company to be remaining after deducting from the gross earnings and revenues of the Railway Company acquired during the periods to which said interest installments respectively relate, the expenses of operation and maintenance, taxes, interest on first mortgage bonds, rentals, repairs, and insurance. The amount of net earnings and revenues so determined by the Board of Directors shall be applied ratably to the payment of said interest installments, and the action as aforesaid of said Board of Directors shall be final and conclusive as to the amount of interest, if any, so payable. If the amount of said net earnings and revenue so determined as hereinabove provided shall be insufficient to provide for the payment of such interest installments or any of them in full, such amount shall be applied to the payment of such interest installments at such reduced rate (not less, however, than one-half of one per cent) as it may suffice to pay, and the amount so paid shall be full satisfaction of the installment to which the payment shall be applied and the interest coupons representing the same shall be surrendered and canceled on receipt of such payment. The said interest on said bonds during the said period from the date hereof, to and including the first day of June, 1910, to which the provisions of this clause relate, shall not be cumulative, and if there are no net earnings and revenues for the six months covered by any interest installment during said period applicable to the payment of such interest, the obligation of the Railway Company to pay such interest shall cease, become void, and be of no effect.

Both principal and interest of the bonds are payable without deduction for any tax or taxes which this Company may be required to pay or retain therefrom under or by reason of any present or future law of the United States, or of any state, county, or municipality thereof. The bonds are in coupon form with power of registration as to principal, and may be converted into registered bonds without coupons of the denominations of \$1,000 and such multiples thereof as the Board of Directors or Executive Committee of the Company may from time to time prescribe. The registered bonds are exchangeable in turn for coupon bonds.

This Company was created under the laws of the States of Pennsylvania, West Virginia, and Ohio by an agreement of consolidation executed on the 7th day of May, 1904, between Pittsburgh, Carnegie & Western Railroad Company, Cross Creek Railroad Company, and The Pittsburgh, Toledo & Western Railroad Company, which agreement provides that the respective corporations thereby merged and consolidated shall be deemed and taken to be one corporation, possessing within the States of Pennsylvania, West Virginia, and Ohio the rights, privileges, and franchises of each of said corporations, as by the laws of the said states provided.

The authorized capital stock of this Company consists of 200,000 shares of the par value of \$50 each, all of which is issued and outstanding, and, with the exception of the shares necessary to qualify directors, is owned by the Wabash Railroad Company.

The mortgages securing these bonds cover as first and second liens thereon respectively the line of railroad of this Company from a connection with the railroad of The Wheeling & Lake Erie Railroad Company at a point known as Pittsburgh Junction, near Jewett, in the County of Harrison, State of Ohio, and extending thence in an easterly direction, through the counties of Harrison and Jefferson, in the State of Ohio, and the County of Brooke, in the State of West Virginia, and the counties of Washington and Allegheny, in the State of Pennsylvania, to the City of Pittsburgh, in said last mentioned State, in all a distance of about 60 miles; also all property appertaining to or provided for use upon said railway, including terminals and terminal property, rights of way, bridges, viaducts, buildings, depots, stations, warehouses, car houses, and all other things of whatever kind now owned by this Company; also all lands designed for depots, warehouses or other structures at any terminus or along

said railway; also all locomotives, cars and other rolling stock and equipment; also all leaseholds, leases and rights under leases or contracts, trackage agreements or operating arrangements, including all the rights of this Company under a certain traffic and trackage contract dated October 10, 1902, and executed by the Wabash Railroad Company, The Wheeling & Lake Erie Railroad Company, and The Pittsburgh, Carnegie & Western Railroad Company (of which this Company is successor), and under a certain contract bearing even date with said mortgages, supplemental to said traffic and trackage contract, by which supplemental contract the Wabash Railroad Co. and The Wheeling & Lake Erie Railroad Company agree to pay, during a period equal to the terms of said mortgages, out of their gross earnings derived east of Chicago and St. Louis from traffic interchanged with this Company an amount not however exceeding twenty-five per cent of such gross earnings, which may be necessary to meet any deficiency of income of this Company necessary to pay interest on the bonds secured by said first mortgage and said second mortgage; also all property, real and personal, which may be constructed or acquired by use of the bonds secured by either of said mortgages, also all other property of every kind which may be expressly conveyed and transferred to the Trustee as part of the security for the bonds issued under said mortgages.

The first mortgage provides that the pledge of the traffic and trackage contracts above mentioned is made subject to the provisions thereof to the effect that if it shall be found in practice that any right or interest of any party thereto has not been fully provided for in accordance with the objects and intent of said agreements, the parties thereto will then negotiate with fairness such changes and amendments as will obviate such injustice and correct such wrong.

The mortgages also cover the following shares of the capital stock of The Wheeling & Lake Erie Railroad Company, constituting a majority of the issued and outstanding capital stock of said Company, and the certificates for said shares, endorsed in blank for transfer, also deposited with and held by The Mercantile Trust Company as Trustee under said first mortgage, viz.:

8,475 shares of the par value of \$100 each of first preferred stock.

64,2-8 shares of the par value of \$100 each of second preferred stock.

118,200 shares of the par value of \$100 each of common stock.

The Wheeling & Lake Erie Railroad Company is a corporation of the State of Ohio owning a line of railroad extending from Toledo to Martins Ferry, in the State of Ohio, a distance of 218 miles, a line of railroad extending from Cleveland to Zanesville, in said State of Ohio, a distance of 114 miles, with branches aggregating 99 miles, in all 461 miles of railroad. The issued and outstanding capital stock of The Wheeling & Lake Erie Railroad Company consists of—

49,867 shares of first preferred stock,

119,935 shares of second preferred stock, and

200,000 shares of common stock.

All shares have equal voting rights.

The bonded indebtedness of The Wheeling & Lake Erie Company is as follows:

Lake Erie Division, Five Per Cent First Mortgage Bonds.....	\$2, 000, 000
Wheeling Division, Five Per Cent First Mortgage Bonds.....	894, 000
Extension and Improvement, Five Per Cent First Mortgage Bonds.....	409, 000
First Consolidated Four Per Cent First Mortgage Bonds.....	11, 318, 000
Toledo Dock & Coal Co. Five Per Cent First Mortgage Bonds.....	50, 000
Total.....	14, 671, 000
Annual interest charge.....	620, 370

The authorized issue of first consolidated bonds is \$15,000,000. The balance remaining unissued are reserved to retire underlying bonds for terminals, improvements, etc.

The line of railroad of the Company now constructed extends from a connection with the Wheeling & Lake Erie system, near Jewett, Ohio, west of the Ohio River, to a passenger station and local freight house in the business center of Pittsburgh, thus affording a direct and through line from Pittsburgh to the Great Lakes at Huron, Cleveland, and Toledo, at which latter point connection is made with the lines of the Wabash system, and through lines established with it to Chicago, St. Louis, and the west.

The construction of various branches at Pittsburgh, or in its vicinity, are contemplated, and in some cases work is under way, these lines being intended to reach the large steel works and other industries supplying a large amount of railroad traffic.

Since the executions of the mortgages the Company has acquired all of the capital stock of the Pittsburgh Terminal Railroad & Coal Company, which in turn owns practically all of the capital stock of the West Side Belt Railroad Company, which railroad extends from a point of connection with the Pittsburgh & Lake Erie Railroad and the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad in Pittsburgh, crossing the railroad of the Wabash Pittsburgh Terminal Railway Company at Belt Junction, one mile distant from the passenger station in Pittsburgh, to Clairton, connecting there with the Pennsylvania lines and the Clairton Bridge & Terminal Railway, which is owned by the Clairton Steel Company, and crossing the Baltimore & Ohio Railroad at Bruceton.

The properties of those Companies are subject to their own mortgages, and the capital stock of the Pittsburgh Terminal Railroad & Coal Company, owned by this Company as above, is free in this Company's treasury and forms no part of the security pledged under its first and second mortgages.

Through the control and use of this line the construction requirements, in order to make the agreed connection with the Union Railway, owned by the Carnegie Steel Company, thereby reaching the Carnegie Works, and other industries at Homestead, Duquesne and Braddock are materially diminished, and such connection is made possible at a much earlier date.

The lines of the West Side Belt Railroad Company also connect with all the railroads reaching Pittsburgh from the south side of the Monongahela River, and also reach all of the mines of the Pittsburgh Terminal Railroad & Coal Company, and certain mines of the Pittsburgh Coal Company.

The Pittsburgh Terminal Railroad & Coal Company owns about 15,000 acres of coal rights and 675 acres of surface land in Allegheny County, Pennsylvania. Seven mines of the Company have been opened and equipped according to best modern practices, and the present capacity of the Company is in excess of 3,000,000 tons a year.

The outstanding bonds and stock of the Pittsburgh Terminal Railroad & Coal Company and the West Side Belt Railroad Company are as follows:

Pittsburgh Terminal Railroad & Coal Company stock (all owned by this Company).....	\$14, 000, 000
Bonds, authorized.....	7, 000, 000
Bonds, outstanding.....	4, 690, 000
West Side Belt Railroad Company stock \$1,080,000, owned by Pittsburgh Terminal Railroad Company.....	1, 085, 000
Bonds, authorized.....	1, 000, 000
Bonds, outstanding.....	380, 000

An important element of value is represented by the various contracts which the Company has negotiated and under which it expects to derive large revenues. The most important of these contracts are the following:

1. The contract with the Carnegie Steel Company, whereby the Carnegie Company agrees to give to The Wabash Pittsburgh Terminal Railway Company, for transpor-

tation over its lines and its connections, one-fourth of all the traffic, including ore, coal and coke controlled by the Carnegie Company, or its allied companies, destined to or coming from points west of Buffalo and Pittsburgh and west from the west line of Pennsylvania projected southward, which can be reasonably well served by the Railroad Company. In ascertaining the amount of this tonnage deliverable to the Company there is deducted from the total tonnage of the Carnegie Company water freight and routed freight and ores, coal and coke and lime stone to the Carnegie Works over railways owned, controlled or leased by the Carnegie Company.

2. The contract with the Wheeling & Lake Erie and Wabash Railroad Companies, dated October 10, 1902, and May 7, 1904:

These contracts exist for the terms of the first and second mortgage bonds, and provide for the interchange, so far as legally possible, of all traffic between the parties fixing the division of earnings between them, and making an arbitrary allowance in favor of the Terminal Road; under them also the Wabash and Wheeling & Lake Erie Companies have the right to run their trains into Pittsburgh, and similar rights are given to the Terminal Company over the lines of the other parties.

In the contract of May 7, 1904, the Wabash and Wheeling & Lake Erie Companies pledge twenty-five per cent of their gross earnings derived east of Chicago and St. Louis from traffic interchanged with the Terminal Company to such an amount as may be necessary to meet any deficiency of income of the Terminal Company necessary to pay interest on the bonds secured by its first and second mortgages.

The effect of these contracts—which are specifically pledged as part of the mortgage security—is to unite three roads as a system as closely as it is possible to do so by operating agreement.

3. The contract between the Terminal Company and the Pittsburgh Coal Company, providing for the operation by the latter company of the mines of the Pittsburgh Terminal Railroad & Coal Company (all of whose stock is, as above-mentioned, owned by the Terminal Company, but is not part of the mortgage security), upon terms which include the payment of a license tax by the Pittsburgh Coal Company at \$350,000 a year, being equal to the amount of the fixed charges upon the entire authorized bonded indebtedness of the Pittsburgh Terminal Railroad & Coal Company, and a royalty of eight cents per ton of coal mined under the agreement, which is to be applied as provided in the sinking fund provision of the mortgage of the Pittsburgh Terminal Railroad & Coal Company. The agreement also provides for the payment of all taxes and insurance by the Pittsburgh Coal Company. In further consideration of the rights granted, the Pittsburgh Coal Company agrees to ship over the lines of the Wabash Pittsburgh Terminal Railway Company and its connections, a minimum amount of 4,000,000 tons of coal annually from the mines operated by the Pittsburgh Coal Company, which Company mined during the last year in the neighborhood of 14,000,000 tons of coal, and this minimum to be increased proportionately as the total annual output of the Pittsburgh Coal Company increases beyond the amount of 14,000,000 tons. The Terminal Company participates directly in the revenue derived from this traffic, both on account of the haul over its own lines, and by reason of its participation in the revenues derived from the handling of the traffic by the Wheeling & Lake Erie and Wabash systems under the pledge of revenues of these systems made by the contract of May 7, 1904, above referred to.

The total authorized issue of The Wabash Pittsburgh Terminal Railway Company First Mortgage Four Per Cent. Fifty-Year Gold Bonds is \$50,000,000.

Provision is made in Section 1 of Article second of the mortgage for the certification by the Trustee and delivery to this Company of \$20,000,000 par value of the bonds immediately upon execution of the mortgage and upon deposit with the Trustee of the shares of the capital stock of The Wheeling & Lake Erie Railroad Company, hereinbefore described, and of the original and supplemental traffic and trackage contracts hereinbefore specifically mentioned.

\$5,000,000 par value, of said bonds are authorized to be certified by the Trustee and delivered to this Company under Section II of Article second of the mortgage as the same are required from time to time by the Company, which covenants that all of said bonds and their proceeds will be used, as far as may be, for the purposes of constructing certain improvements in Pittsburgh and the Pittsburgh District, which were in progress or in immediate contemplation at the time of the execution of the mortgage.

The remainder of said bonds, viz: \$25,000,000 par value thereof, are reserved under Section III of Article second of said mortgage for the purposes of the construction or acquisition and equipment of lines of railroad constituting extensions or branches connecting with any railroad of this Company subject to said mortgage at the time of said construction or acquisition; or the acquisition of all of the mortgage bonds, if any, and all of the outstanding capital stock (less shares to qualify directors) of any Company or Companies owning any such extension or branch line; or the construction or acquisition of such extension or branch line by any Company, all of the mortgage bonds, if any, and all of the capital stock of which (less shares to qualify directors) shall be then subject to said mortgage and held by the Trustee thereunder; also the construction or acquisition of second or double tracks, ships, depots, terminal properties and equipment for use upon or in connection with the lines of railroad subject to the mortgage; or the acquisition of all the mortgage bonds, if any, and all of the capital stock (less shares to qualify directors) of any Company or Companies owning such improvements.

The mortgage further provides (Section 4, Article second) that bonds shall not be issued thereunder in excess of \$35,000,000 par value, unless full interest for the two preceding semiannual interest periods shall have been paid upon all of the then outstanding first and second mortgage bonds of the Company.

\$20,000,000 of the bonds covered by the present application were certified by the Trustee and delivered to this Company immediately upon the execution of said mortgage, in accordance with the provisions of Section 1 of Article second thereof.

The remainder of the bonds covered by the present application, viz: \$5,000,000 were certified by the Trustee and delivered to this Company in accordance with the provisions of Section II of Article second of said mortgage, and the proceeds of these bonds have been or will be used for the purposes mentioned in that Section.

From the foregoing it appears that the amounts of The Wabash Pittsburgh Terminal Railway Company First Mortgage Four Per Cent. Fifty-Year Gold Bonds, certified by the Trustee and issued and outstanding at the date of this application, are as follows:

Total amount certified.....	\$25, 000, 000
Bonds issued and outstanding.....	25, 000, 000

Application of bonds:

To this Company upon execution of the mortgage and deposit of stock and contracts .....	20, 000, 000
To provide for improvements in and near Pittsburgh.....	5, 000, 000
	<u>25, 000, 000</u>

The total authorized issue of the Second Mortgage Four Per Cent. Fifty-Year Gold Bonds is \$20,000,000.

Provision is made in Section 1 of Article second of said mortgage for the certification by the Trustee and delivery to this Company of the entire authorized issue of said second mortgage bonds immediately upon the execution of the mortgage or as soon thereafter as may be required to be used by this Company for any lawful corporate purpose.

The second mortgage bonds covered by the present application constitute the entire issue of said bonds, and were certified by the Trustee and delivered to this Company

## THE WABASH PITTSBURGH TERMINAL INVESTIGATION. 197

immediately upon the execution of said mortgage in accordance with the provisions of Section 1 of Article second thereof.

All of the bonds covered by the present application have been sold or disposed of by this Company and are now outstanding.

The following is a copy of the General Balance Sheet of the Company as of November 30, 1904:

ASSETS.	
Cost of road, franchises, etc.....	\$40, 182, 220. 25
Construction expenditures.....	4, 546, 621. 79
Wheeling & Lake Erie R. R. Co. stock.....	6, 000, 000. 00
Pittsburgh Terminal R. R. & Coal Co. stock.....	3, 159, 740. 13
Wabash Pittsburgh Terminal Ry. Co. First Mortgage Bonds in Treasury	500, 000. 00
Interest on First Mortgage Bonds.....	405, 722. 23
Supplies on hand.....	822. 87
H. B. Henson, Treasurer, cash on hand.....	873, 386. 02
Accounts collectible.....	167, 016. 34
Bills receivable.....	373, 450. 00
Due from station agents.....	4, 756. 25
Remittance in transit.....	1, 688. 00
	56, 215, 423. 88
LIABILITIES.	
Capital stock.....	10, 000, 000. 00
First Mortgage Bonds.....	20, 000, 000. 00
Temporary First Mortgage Bonds.....	5, 000, 000. 00
Second Mortgage Bonds.....	20, 000, 000. 00
Unpaid and accrued coupon:	
Interest accrued, not due.....	500, 000. 00
Accounts payable:	
Vouchers and pay rolls.....	515, 621. 14
Assistant Treasurer, overdraft.....	96, 613. 46
Due railroads:	
Freight and ticket account.....	50, 302. 88
Balance at credit of income account.....	52, 886. 40
	56, 215, 423. 88

The bonds are registered and transferred at the office of the Company, No. 195 Broadway, New York City. The mortgages have been duly recorded, and there is handed you herewith a certified copy of each of said mortgages. There are attached to the certified copies of said mortgages copies of certificates of record showing the recording of the original mortgages.

The general officers of this company are: George J. Gould, Chairman of the Board; Joseph Ramsey, jr., President; James W. Patterson, Vice President; Henry B. Henson, Secretary and Treasurer.

The Directors are: George J. Gould, Joseph Ramsey, jr., J. W. Patterson, J. T. Walsh, Thomas B. Foley, George Beckwith, N. P. Ramsey, E. T. Jeffery, J. H. McClement, Benjamin Nicoll, Winslow S. Pierce, Lawrence Greer, A. H. Calef, C. C. McCarthy, W. D. Holliday.

There are also handed you with this certificate copies of Resolutions adopted by the Board of Directors and by the Stockholders of this Company authorizing and approving the issue of its First and Second Mortgage Bonds and the execution of the Mortgages securing the same; also specimen Bonds and Certificates of the Trustees of the Mortgages acknowledging the acceptance of the respective trusts and giving the

numbers and amount of bonds certified, in accordance with the terms of the Mortgages, also an Opinion of Counsel in the usual form.

Application is now made that the First Mortgage Four Per Cent Fifty-Year Gold Bonds of this company, in the principal amount of \$25,000,000, and bearing numbers from 1 to 25,000, both inclusive, and the Second Mortgage Four Per Cent Fifty-Year Gold Bonds of this company, in the principal amount of \$20,000,000, and bearing numbers from 1 to 20,000 both inclusive, may be admitted to the regular list of the Exchange.

Respectfully,

THE WABASH PITTSBURGH TERMINAL RAILWAY COMPANY.

By J. RAMSEY, JR., *President*.

This Committee recommends that the above-described \$25,000,000 First Mortgage Four Per Cent Fifty-Year Coupon Bonds of 1954, for \$1,000 each, Nos. 1 to 25,000, inclusive, and \$20,000,000 Second Mortgage Four Per Cent Fifty-Year Coupon Bonds of 1954, for \$1,000 each, Nos. 1 to 20,000, inclusive, be admitted to the list.

W. H. GRANBERY, *Chairman*.

Adopted by the Governing Committee, February 23, 1905.

WM. MCCLURE, *Secretary*.

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64th Congress,  
1st Session.

APPENDIX 22.

H. Res. 57.

IN THE HOUSE OF REPRESENTATIVES.

*December 14, 1915.*

Mr. Linthicum submitted the following resolution; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

RESOLUTION.

*Resolved*, That the Interstate Commerce Commission be requested to examine the affairs of the Wabash Pittsburgh Terminal Railway Company, with a view of ascertaining—

What physical properties, franchises, and other things of value it has acquired, by purchase or otherwise, since its organization under the laws of Pennsylvania on May ninth, nineteen hundred and four. What were its assets and liabilities in October and November, nineteen hundred and four.

Upon what assets in excess of its liabilities did it base its issue of first mortgage bonds aggregating \$30,236,000, and what cash or things of value did it receive as the result of the sale or disposal of such first mortgage bonds.

What bankers or brokers or other agencies were employed or used in the sale or disposal of all or any part of said issue of first mortgage bonds.

If said issue of first mortgage bonds, or any part thereof, were sold or disposed of by or through any bankers or brokers, at what price were they sold and to whom were they sold.

What, if any, representations as to the security of such bonds were made by the persons or firms who sold or disposed of them, and what amounts were sold or disposed of to insurance companies and savings banks.

For what purpose or purposes were the funds derived from the sale of all or any part of said issue of first mortgage bonds used by the Wabash Pittsburgh Terminal Railway Company.

What is the character of the services now being given to the public by the passenger terminal building in Pittsburgh; the sixty miles of railroad from such terminal to Jewett, Ohio; the Pittsburgh Terminal Railroad and Coal Company; the West Side Belt Line of Pittsburgh, and certain coal mines, all of which properties were acquired and owned by said Wabash Pittsburgh Terminal Railway Company.

From whom and at what price did the Wabash Pittsburgh Terminal Railway Company obtain control of fifty-one and seven-tenths per centum of the capital stock of the Wabash and Lake Erie Railroad Company, and the names of the individuals whose stock was purchased or acquired in obtaining such control.

Did the Wabash Pittsburgh Terminal Railway Company ever transfer to or give to the Wabash Railway Company as security or for any purpose certain bonds and stocks already pledged, or supposed to be already pledged, as security for the \$30,236,000 first mortgage bonds of the Wabash Pittsburgh Terminal Railway Company.

And, generally, to ascertain what has occurred to make the present market value of said first mortgage bonds, which were sold at a price in excess of ninety cents on the dollar, now practically worthless.

And what efforts, if any, through reorganization committees or by other means, have been made to protect the interests of the insurance companies, savings banks, and other purchasers of these first mortgage bonds, with particular inquiry and investigation to ascertain if the physical properties owned by the Wabash Pittsburgh Terminal Railway Company have not a marketable value in excess of the par value of the issue of its first mortgage bonds, and what influence or happening is accountable for the present market value of the bonds and stocks issued by the Wabash Pittsburgh Terminal Railway Company.

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## WESTERN CEMENT RATES.

No. 8182.<sup>1</sup>

### IN THE MATTER OF RATES ON CEMENT BETWEEN POINTS IN WESTERN TRUNK LINE TERRITORY AND BETWEEN POINTS IN WESTERN TRUNK LINE TERRI- TORY AND ADJACENT TERRITORIES.

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*Submitted November 24, 1917. Decided January 15, 1918.*

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1. Reasonable maximum joint through rates to key points and distance scales prescribed for the movement of cement in carloads between points in western trunk line territory and between points in adjacent territories and western trunk line territory.
2. Distances to be calculated via short-line workable routes.
3. Fourth section relief granted at points intermediate to key points, provided that the scale rates herein prescribed are not exceeded at such intermediate points, and that such rates are not in excess of the lowest combination.
4. A uniform minimum weight of 50,000 pounds prescribed for the entire territory; a rate 13 per cent higher than the basic rate may be published for a minimum of 38,000 pounds.

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<sup>1</sup>The report also embraces: Investigation and Suspension Docket No. 257, Iowa-Minnesota Cement Rates; Investigation and Suspension Docket No. 339, Cement Rates from Mason City, Iowa; Investigation and Suspension Docket No. 382, Cement Rates from Mason City, Iowa, to Beach, N. Dak.; Investigation and Suspension Docket No. 406, Freight Rates between Points in Minnesota via Interstate Routes and between Points in Minnesota and other States; Investigation and Suspension Docket No. 408, Cement Rates between Points in Illinois and Points in Minnesota and other States; Investigation and Suspension Docket No. 463, Cement Rates from Duluth, Minn., Mason City and Des Moines, Iowa, to Stations on the Midland Continental Railroad; Investigation and Suspension Docket No. 728, Cement from Mason City, Iowa, and other Points; Investigation and Suspension Docket No. 819, Cement to International Falls, Minn., No. 2; Investigation and Suspension Docket No. 935, Cement to Nebraska Stations; Investigation and Suspension Docket No. 950, Cement from Ada, Okla.; Investigation and Suspension Docket No. 960, Cement to Sallisaw; Investigation and Suspension Docket No. 981, Cement to Iowa Points; No. 5914, Newaygo Portland Cement Company v. Chicago, Milwaukee & St. Paul Railway Company et al.; No. 7138, Atlas Portland Cement Company v. Chicago, Milwaukee & St. Paul Railway Company et al.; No. 8019, Iola Cement Mills Traffic Association et al. v. Atchison, Topeka & Santa Fe Railway Company et al.; No. 8294, Marquette Cement Manufacturing Company et al. v. Chicago, Rock Island & Pacific Railway Company et al.; No. 8321, Huron Portland Cement Company v. Detroit & Mackinac Railway Company et al.; No. 8321 (Sub-No. 1), Newaygo Portland Cement Company v. Pere Marquette Railroad Company et al.; No. 8453, Chicago Portland Cement Company et al. v. Illinois Central Railroad Company et al.; No. 8490, Oklahoma Portland Cement Company v. Missouri, Kansas & Texas Railway Company et al.; No. 8824, Chicago Portland Cement Company et al. v. Chicago & North Western Railway Company et al.; No. 8932, Newaygo Portland Cement Company v. Duluth, Missabe & Northern Railway Company et al.; and Fourth Section Applications Nos. 54, 98, 226, 553, 839, 2380, 2672, 3054, 3065, 3110, 3114, 3529, 3540, 3758, 3839, 3893, 4218, 4219, 4220, 4779, 4787, and 4823.

5. The practice of making through rates on cement on basis of combinations approved as to St. Paul but disapproved as to Missouri River crossings.
6. In an investigation to determine the reasonableness of cement rates, the Commission will not conduct a general inquiry into the reasonableness of switching rates at terminals.
7. Buffington, Ind., is within the limits of the Chicago switching district, and distances from and to Buffington should be calculated upon the basis of distances from and to Chicago.
8. Rates prescribed from Gilmore City, Iowa, to all interstate destinations within the territory.
9. Carriers directed to withdraw tariffs under suspension and to check in rates in accordance with the findings herein; formal complaints dismissed; fourth section applications denied, except where relief is consistent with the findings herein.

*P. W. Dougherty, J. J. Murphy, Oliver E. Sweet, and D. L. Kelley* for South Dakota Board of Railroad Commissioners; *Victor E. Wilson* and *U. G. Powell* for Nebraska State Railway Commission; *C. F. Foley* and *A. E. Helm* for Public Utilities Commission of Kansas; *J. H. Henderson, Dwight N. Lewis, and E. H. Scott* for Board of Railroad Commissioners of Iowa; *J. K. Kane* and *J. L. Bowlus* for State Public Utilities Commission of Illinois; *I. B. Mills* and *A. L. Flinn* for Minnesota Railroad and Warehouse Commission; and *C. B. Bee* for Missouri Public Service Commission.

*C. C. Wright* and *J. N. Davis* for western trunk line carriers generally; *J. N. Davis, O. W. Dynes, and C. A. Lahey* for Chicago, Milwaukee & St. Paul Railway Company; *C. C. Wright, R. H. Widdicombe, and A. F. Cleveland* for Chicago & North Western Railway Company; *R. B. Scott, Kenneth F. Burgess, and L. C. Mahoney* for Chicago, Burlington & Quincy Railroad Company; *A. P. Humburg* and *J. H. Cherry* for Illinois Central Railroad Company; *Charles Donnelly* for Northern Pacific Railway Company; *J. G. Morrison* and *George A. Kelly* for Chicago Great Western Railroad Company; *W. H. Bremner* and *F. B. Townsend* for Minneapolis & St. Louis Railroad Company; *T. R. Farrell* and *N. S. Brown* for Wabash Railway Company; *Wallace T. Hughes, W. F. Dickinson, and R. G. Brown* for Chicago, Rock Island & Pacific Railway Company and *Jacob M. Dickinson*, its receiver; *R. W. Campbell* and *T. E. Bond* for Elgin, Joliet & Eastern Railway Company; *Henry G. Herbel, Fred G. Wright, and C. C. P. Rausch* for Missouri Pacific Railway Company; *C. S. Burg* and *J. W. Allen* for Missouri, Kansas & Texas Railway Company; *H. A. Scandrett* for Union Pacific Railroad Company; *Thomas Bond* and *W. M. Powers* for St. Louis-San Francisco Railway Company; *A. H. Lossow* for Minneapolis, St. Paul & Sault Ste. Marie Railway Company; *James B. Coffey* for Atchison, Topeka & Santa Fe Railway Company; *H. H. Brown* for Great Northern Railway Company; *R. P. Paterson* for Pere Marquette Railroad Company and its receivers; *O. S. Lewis* for Balti-

more & Ohio Southwestern Railroad Company; *C. W. Kieswetter* for Duluth, Missabe & Northern Railway Company; *D. P. Connell* for central freight association lines; *Winston, Payne, Strawn & Shaw*; *John F. Finerty*; *James B. Sheean*; *A. E. Miller*; and *H. I. Dick* for various carriers.

*J. R. Bremner* for Madison, Wis., Board of Commerce; *J. H. Henderson* and *Dwight N. Lewis* for Iowa manufacturers; and *C. G. Evans* for Cutler-Magner Company.

*Harry I. Allen* and *Frank T. Bentley* for Universal Portland Cement Company; *F. E. Paulson* and *L. J. Dauback* for Lehigh Portland Cement Company and Northwestern States Portland Cement Company; *C. B. Condon* for Hawkeye Portland Cement Company; *T. L. Philips* and *F. C. Taylor* for Union Sand & Material Company; *Frank Lyon*, *Herbert Haase*, and *Walter Young* for Atlas Portland Cement Company; *Luther M. Walter*, *John S. Burchmore*, and *F. C. Dumbeck* for Chicago Portland Cement Company, German-American Portland Cement Company, Marquette Cement Manufacturing Company, and Sandusky Portland Cement Company; *Hal H. Smith* for Newaygo Portland Cement Company, Huron Portland Cement Company, and other Michigan cement manufacturers; *C. R. Hillyer*, *William E. Lamb*, *J. H. Fishback*, *L. T. Sunderland*, and *B. L. Glover* for Iola Cement Mills Traffic Association; *E. S. Gubernator* for Iola Portland Cement Company; *L. T. Sunderland* and *B. L. Glover* for Ash Grove Lime & Portland Cement Company; *E. H. Hogueland* for Bonner Portland Cement Company and Dewey Portland Cement Company; *R. W. Moore* and *F. E. Tyler* for Dewey Portland Cement Company; *F. H. Patterson* for Fredonia Portland Cement Company; *H. F. G. Wulf* for Monarch Cement Company; *Charles L. Hogan* for Altoona Portland Cement Company; *B. L. Glover* for Fort Scott Hydraulic Cement Company; *A. W. Shulthis* for Western States Portland Cement Company; *O. F. Swanson* for Great Western Portland Cement Company; *Will H. Hart* and *W. S. Morrison* for Oklahoma Portland Cement Company; *J. E. Zahn* and *F. W. Maxwell* for United States Portland Cement Company and *F. W. Maxwell* for Colorado Portland Cement Company.

#### REPORT OF THE COMMISSION.

**DANIELS, Commissioner:**

A tentative report was drafted by the examiner and served on the parties, after which briefs were filed and oral argument had thereon. The present report contains certain deviations from the proposed report, but is in other respects substantially the same as the report originally drafted. As modified, the report following has been approved by the Commission.

## ORIGIN OF THE CEMENT INVESTIGATION.

In 1914 the western trunk line carriers published tariffs providing for an increase of 2 cents per 100 pounds in the carload rates on cement from Chicago group points, which include Buffington, Ind., La Salle, Oglesby, and Dixon, Ill., and Hannibal, Mo., from Mason City and Des Moines, Iowa, from St. Louis, Mo., and from producing points in the Kansas gas belt, to St. Paul and other points in the states of Minnesota, Wisconsin, Iowa, and South Dakota. These points of origin included all the principal cement-producing points then existing in western trunk line territory. Probably the most important single rate in the cement adjustment in western trunk line territory is the rate from Chicago to St. Paul. This it was proposed to increase from 8 cents per 100 pounds, the rate which had been in force since 1904, to 10 cents. Prior to 1904 this rate had fluctuated, amounting at different times to 12½, 8, and 10 cents. Our report in *Cement Rates from Points in Illinois*, 32 I. C. C., 369, allowed the full increase of 2 cents from the Chicago group and from St. Louis to St. Paul, and an increase of 1 cent from Mason City and Des Moines to St. Paul. The report also allowed the full amount of the proposed increase of 2 cents from the La Salle district to Milwaukee, Wis., thereby changing that rate from 5 cents to 7 cents, and granted the proposed increase of 1 cent from Buffington to Milwaukee, making the latter rate 6 cents and destroying the parity theretofore existing between La Salle and Buffington on cement traffic to Milwaukee. The proposed increase from the Kansas gas belt group to St. Paul from 15 cents to 17 cents was denied.

By complaint filed May 15, 1915, the Iola Cement Mills Traffic Association, which is an association of cement manufacturers having mills at Iola, Mildred, Chanute, Independence, Fredonia, Altoona, and Humboldt, Kans., and Dewey, Okla., in what is known as the Kansas gas belt, attacked their rates to points in Missouri, Iowa, Minnesota, and South Dakota alleging that they were unjust, unreasonable, and discriminatory in that they unduly preferred shippers and manufacturers located at Bonner Springs, Kans., Sugar Creek, Hannibal, and St. Louis, Mo., Mason City and Des Moines, Iowa, La Salle and Dixon, Ill., and Buffington, Ind., and other points. We were asked to fix reasonable and nondiscriminatory rates. All of the principal western trunk line carriers were named parties defendant. At this hearing practically all of the cement interests located in western trunk line territory intervened in opposition to the contentions of the complainant, and one of the interveners, the Universal Portland Cement Company, having a mill at Buffington, Ind., asked for the reopening of a number of cases involving cement rates

in different portions of western trunk line territory and their consolidation, together with all pending cases affecting cement rates in that territory. This general investigation was thereafter undertaken by us for the purpose of establishing cement rates within this general territory upon a fair, uniform and nondiscriminatory basis. Meanwhile, upon the petition of the La Salle group of mills, we had reopened for further argument upon briefs those issues in *Cement Rates from Points in Illinois, supra*, which involved the question of the reasonableness of the carload rates on cement from La Salle and Dixon to Milwaukee and other lake points, to points in the interior of Wisconsin, and to points intermediate to St. Paul taking higher rates than St. Paul. Briefs were duly filed by the parties, and the issues involved were awaiting decision when our order instituting the cement investigation was promulgated.

On July 30, 1915, we issued our order instituting an inquiry into the rates maintained by the carriers for the transportation of cement between points in western trunk line territory, and between points in western trunk line territory and adjacent territories. It was further ordered that the investigation should be conducted with a view to ascertaining whether the present rates are unreasonable or whether they subject cement traffic within the territories to undue or unreasonable prejudice or disadvantage or give undue or unreasonable preference or advantage to any of such traffic, and to determine what shall be the reasonable relationship of rates between points of origin and destination. The following cases were reopened for further hearing in connection with the investigation: *Iowa-Minnesota Cement Rates*, 28 I. C. C., 477; *Cement Rates from Mason City, Iowa*, 30 I. C. C., 426; *Freight Rates from Minnesota Points*, 32 I. C. C., 361; *Cement Rates from Points in Illinois*, 32 I. C. C., 369; and *Cement Rates to Stations on M. C. R. R.*, 32 I. C. C., 540. The order also consolidated for hearing with this investigation the following cases then pending: Investigation and Suspension Docket No. 382, *Cement Rates from Mason City, Iowa, to Beach, N. Dak.*; Docket No. 5914, *Newaygo Portland Cement Co. v. C., M. & St. P. Ry. Co. et al.*; Docket No. 7138, *Atlas Portland Cement Co. v. C., M. & St. P. Ry. Co. et al.*; and Docket No. 8019, *Iola Cement Mills Traffic Association et al. v. A., T. & S. F. Ry. Co. et al.*

In addition to the foregoing the following dockets have been consolidated with the cement investigation since the beginning of the hearings herein: Investigation and Suspension Docket No. 728, *Cement from Mason City, Iowa, and Other Points*; Investigation and Suspension Docket No. 819, *Cement to International Falls, Minn., No. 2*; Docket No. 8294, *Marquette Cement Manufacturing Co. et al. v. C., R. I. & P. Ry. Co. et al.*; Docket No. 8321, *Huron*  
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*Portland Cement Co. v. Detroit & Mackinac Ry. Co. et al.*; Docket No. 8321 (Sub-No. 1), *Newaygo Portland Cement Co. v. P. M. R. R. Co. et al.*; Docket No. 8453, *Chicago Portland Cement Co. et al. v. Illinois Central R. R. Co. et al.*; Docket No. 8490, *Oklahoma Portland Cement Co. v. M., K. & T. Ry. Co. et al.*; Docket No. 8824, *Chicago Portland Cement Co. et al. v. C. & N. W. Ry. Co. et al.*; Docket No. 8932, *Newaygo Portland Cement Co. v. Duluth, Missabe & Northern Railway Co. et al.*; Investigation and Suspension Docket No. 935, *Cement to Nebraska Stations*; Investigation and Suspension Docket No. 960, *Cement to Sallisaw*; and Investigation and Suspension Docket No. 981, *Cement to Iowa Points*.

By western trunk line territory as herein used we mean western trunk line territory as defined by us in the *1915 Western Rate Advance Case*, 35 I. C. C., 497, including trans-Missouri territory. While the order instituting the investigation was broad enough to include movements between points in "adjacent" territories, such as southwestern tariff committee territory, for example, and points in western trunk line territory, the present report will be confined to the territory where the rate adjustment was in issue at the hearings. Generally speaking, outbound rates from western trunk line territory to adjacent territories were not considered. Only a few special situations involving such rates will be dealt with herein. The general adjustment which will be covered by virtue of our original order herein will include rates from producing points in Michigan, Indiana, Illinois, Minnesota, Iowa, Missouri, Kansas (including Dewey, Okla.), and Colorado, to destinations in western trunk line territory as hereinabove defined.

By additional orders the scope of the investigation was extended to include the movement from cement-producing points in Michigan and Indiana to Chicago and other Illinois destinations, and the carriers were required to justify the fourth section departures within the territory included in the investigation as covered by their applications on file. Since the beginning of this investigation and following the purchase of a majority interest in the capital stock of the Iola Portland Cement Company by the Lehigh Portland Cement Company the name of the former concern has been withdrawn as a party complainant in Docket No. 8019.

Four separate hearings have been held, three of them at Chicago, Ill., and the final hearing at Washington, D. C. The hearings covered a period of 35 days, and a voluminous record has been presented for our consideration.

Rates discussed throughout this report are expressed in cents per 100 pounds, except as otherwise noted. The carriers will be referred to by their customary names, instead of their corporate titles, except where the use of the short name would cause ambiguity.

## GROWTH OF THE CEMENT INDUSTRY.

In 1880 the recorded production of cement in the United States was 42,000 barrels. In 1890 it was 335,000 barrels. During this time, and perhaps down to 1895, the bulk of the cement consumed in the United States was imported from foreign countries. In 1900 the domestic production rose to 8,482,020 barrels, or 200 times the production in 1880. In more recent years the figures are as follows, expressed in barrels:

1907	48,785,890
1912	82,438,096
1913	82,097,181
1914	88,230,170
1915	85,914,907

The falling off of the production in recent years should not be overlooked.

Prior to 1900 the production in the United States was practically all east of the Indiana-Illinois state line. In 1890 a mill was built at Yankton, S. Dak., which was operated more or less continuously for 18 or 20 years, but is not now in existence. Another portland cement mill was constructed during the nineties at White Cliffs, Ark., but it was not successful. The oldest mill west of the Mississippi which the record shows as now in operation is the mill at Iola, Kans., which was constructed in 1900. The first successful mill on the Mississippi River was the one at Prospect Hill, near St. Louis. This was constructed in 1902 and is now owned by the Union Sand & Material Company.<sup>1</sup>

The dates of construction of certain of the cement mills and their location appear in the following table. The table may suggest that at least one cause of the curtailment of the markets of certain producers is the construction of new mills nearer to those markets.

*Location and date of construction of cement mills.*

1896	Chicago, Ill.	Universal Portland Cement Co. (Illinois Steel Co.)
1897	La Salle, Ill.	Marquette Portland Cement Co.
1900	South Chicago, Ill.	Universal Portland Cement Co. (Illinois Steel Co.)
1900	Iola, Kans.	Iola Portland Cement Co.
1901	Portland, Colo.	Colorado Portland Cement Co.
1901	Hannibal, Mo.	Atlas Portland Cement Co.
1902 (before)	Coldwater, Mich.	Wolverine Portland Cement Co.
1902	Prospect Hill (St. Louis, Mo.)	Union Sand & Material Co.
1903	Buffington, Ind.	Universal Portland Cement Co.
1903	Orelesby, Ill.	Chicago Portland Cement Co.
1907	Sugar Creek, Mo. (Kansas City, Mo.)	Union Sand & Material Co.
1908	Chanute, Kans.	Ash Grove Lime & Portland Cement Co.
1908	Ada, Okla.	Oklahoma Portland Cement Co.
1909	Mason City, Iowa	Northwestern States Portland Cement Co.
1910	Des Moines, Iowa	Hawkeye Portland Cement Co.
1911	Mason City, Iowa	Lehigh Portland Cement Co.
1915	Steeltown (Duluth, Minn.)	Universal Portland Cement Co.

<sup>1</sup> Since the close of the hearings in this investigation the Union Sand & Material Company has been succeeded by the Missouri Portland Cement Company.

## ORDER OF PROCEDURE.

At the outset of the hearing it was announced that the order to be followed in the presentation of evidence would be first, evidence presented by the Commission's statistician for the benefit of all parties, including a tentative suggestion as a basis for the readjustment of rates; second, other propositions for a general rate adjustment dissociated from the complaint and answer or investigation and suspension cases; third, such individual cases as the parties desired further to develop, the cases being called in numerical order; and fourth, the hearings upon the applications of the carriers for permission to depart from the requirements of the fourth section of the act to regulate commerce. When many of the individual cases were reached, the parties stated that they would not offer further testimony but would rest upon the evidence already of record in the general investigation. In the following cases additional testimony was offered: I. C. C. Dockets 8019 and 8490; Investigation and Suspension Dockets 935, 950, 960, and 981. With the exception of an application of the Frisco, hereinafter dealt with, the findings in the general investigation will obviate the necessity of a particular disposition of the carriers' fourth section applications other than the entry of the appropriate orders.

## PLANS FOR READJUSTMENT.

Hardly any two interests, either of carrier or shipper, are identical in this proceeding. The general attitude of the carriers is that the situation is not one which demands a radical change in the existing rate adjustment, and they ask a discontinuance of the investigation, a dismissal of the pending complaints, and a cancellation of the orders of suspension in the investigation and suspension cases. Other parties took the position that there are some important rate discriminations and irregularities in the present adjustment which should be corrected, but that the carriers could themselves straighten out these irregularities if they would but make an impartial and courageous overhauling of their rates. It would appear, however, that they have already attempted a rate revision. The record shows that a number of conferences have been held separately and collectively between shippers and carriers with this end in view, but it was found impossible to reach an agreement which was satisfactory to all.

At the hearings various representatives of the cement producers presented scales for a comprehensive readjustment of rates throughout the territory. These will be described hereinafter in the order in which they were presented. No independent scheme was presented by the carriers with the exception of the Burlington. A tentative

scale of cement rates prepared by the statistician of the Commission, upon the basis hereinafter described, was furnished the parties in advance of the hearings.

#### THE LORENZ SCALES.

A memorandum was introduced as the Commission's second exhibit containing a table of rates worked out by the statistician of the Commission, for application in different portions of western trunk line territory. Although frequently referred to in the record as the "I. C. C. plan," it was not presented as reflecting the views of the Commission itself. This will hereinafter be referred to as the Lorenz scales or the Lorenz plan. The formation of these scales will now be described.

As a basis for study, the rates and distances were found from 25 points of origin of cement in Illinois, Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Colorado, to 400 points of destination in Illinois, Wisconsin, Michigan, Minnesota, Iowa, Missouri, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota. Through commodity rates were the only ones used, the assumption being that the movement of cement is generally upon such rates. Out of a total of 10,000 possible rates between the points selected approximately 7,000 through commodity rates were found. The points of destination were selected so as to cover all parts of the territory in question. The distances as compiled represented the short-line distance regardless of physical connections and regardless of whether the routes were workable or not. During the hearing this method of figuring distance was sometimes referred to as the "air line" distance, and sometimes as the "shortest possible" distance. It will hereinafter be denoted by the latter expression.

The tabulations included all commodity cement tariffs in force in the region described with the exception of St. Louis tariffs and one other, which were overlooked. Minimum weights were also noted. The compilation showed that a wide variation in distance exists for the same rate; for instance, from Indiana and Illinois points of origin a 6-cent rate may be found applying to distances from 65 to 285 miles, and a 10-cent rate for distances from 195 to 475 miles; from Missouri points of origin a 6½-cent rate may be found for distances from 50 to 285 miles; from Kansas origins a 9-cent rate for distances between 80 and 225 miles and a 12½-cent rate between 135 and 475 miles. Generally the minimum weight in the commodity tariffs used is 50,000 pounds, but minima of 38,000, 30,000, and 24,000 pounds also occur. On the basis of the ratio of the net to the gross weight of car and contents, a 38,000-pound load requires rates about 13 per cent higher than a 50,000-pound load to afford the

same revenue per gross ton-mile, and a 24,000-pound load requires rates about 45 per cent higher than a 50,000-pound load, counting the weight of the car at  $17\frac{1}{2}$  tons, or 35,000 pounds.

In the study of the rates compiled an attempt was first made to plot upon cross-section paper all of the rates from various points of origin to various destinations with the intention, if the rates should conform to some definite trend, to construct a schedule which could be said to be merely an alignment of the existing rates. On account of the wide variations in distance for the same rates, however, this method was abandoned. It was decided to seek an independent standard from statistical data at hand, to construct a tentative scale, and then to compare this with existing rates so far as practicable and with other suggested scales.

The average load of cement in western trunk line territory is higher than the usual minimum of 50,000 pounds found in most of the tariffs. For 1915 the average loading of cement on the Burlington was 30.4 tons, on the North Western 32.8 tons, on the Omaha 30.8 tons, on the Santa Fe, cement, plaster, and lime, 27.7 tons, and on the Rock Island, cement and plaster, 28.5 tons. As some of this traffic is carried on minima less than 50,000 pounds, it was assumed that when the minimum weight is 25 tons the average load is 30 tons or more. The basis of the Lorenz scales is an average earning of 4.1 mills per gross ton-mile for an average haul of 260 miles and an average loading of 30 tons. The primary scale is worked out in the following manner: For the year 1915 the average revenue per loaded gross ton-mile for all freight on the North Western, Omaha, Burlington, Minneapolis & St. Louis, and Great Western was 4.1 mills. By the expression "gross ton-mile" is meant the loaded movement of car and contents, and in this sense it will be used hereafter throughout this report. Multiplying the gross ton-mile earnings of 4.1 mills by 47.5, which is the weight in tons of car and contents, assuming 30 tons as the average load and  $17\frac{1}{2}$  tons as the average tare of box cars, a car-mile earning of 19.475 cents is obtained. Dividing this car-mile earning by 30, the assumed average number of tons in a car, we get 6.49 mills per net ton-mile of the load. But these figures have no significance except in connection with the length of the haul.

The average haul of all tonnage over the five roads above named is 199 miles. If this figure is assigned for the average haul of cement, we have as a basis for calculation a ton-mile earning of 6.5 mills for a distance of 199 miles. But the average haul as above employed is the average haul on a railway considered by itself and not the average haul in the region, where hauls are frequently over more than one line. Thus if a ton is hauled 100 miles on the North Western and it is delivered to the Omaha for another haul of 100

miles, it will be reported separately by each road as a ton hauled 100 miles, whereas the actual haul of the shipment was 200 miles. For the United States as a whole, the average haul on a railway in 1914 was 146 miles, but for all freight on all roads considered as one system the average haul was 260 miles. In the western district a separate computation for the average haul can not be made because we can not eliminate the traffic exchanged with eastern and southern roads. It was concluded, however, that a true average haul for the territory involved in this case is probably not far from 260 miles. If the 6.49 mills per net ton-mile above derived be taken as applying to 260 miles, it is equivalent to a rate of 8.4 cents for that distance.

Various considerations tending to affect the assumed basis of 4.1 mills as a standard gross ton-mile earning were discussed, some of them indicating that the assumed basis was somewhat too high, others having a contrary tendency. It was concluded tentatively that these various elements have a tendency to balance each other and 8.4 cents was adopted as a tentative reasonable rate for an average distance of 260 miles. A scale was then constructed beginning with 3 cents for 5 miles, which is approximately where cement scales generally start, and the progression was made so as to reach 8.4 cents at 260 miles. A study of the rates compiled shows in general a rapid decline in ton-mile earnings as distance increases. Under our present rate systems rates seem more nearly proportional to the square root of the distance than to the distance itself, thus showing a tendency in the present rates to promote long distance competition.

It was found that if the progression on the basis of making rates proportional to the square root of the distance was extended for very long distances, the ton-mile earnings became clearly too low. Whether it is economically wise to encourage long distance competition is one of the questions which is prominent in this case. In constructing the basic scale it was decided to continue for distances beyond 400 miles the same increase per 100 miles as was found for the distance from 300 to 400 miles, namely, 1.3 cents. This makes a straight line progression after 300 miles.

The memorandum introduced by the Commission as its Exhibit 2, hereinbefore referred to, makes clear that while the basic Lorenz scale is not wholly arbitrary, its method of construction is not in itself a sufficient justification for its adoption, unless, after comparison with other standards, it meets the test of reasonableness. After these comparisons were made, as shown by the exhibit and set forth in part on pages 215 and 216, *infra*, it was concluded that the Lorenz basic scale would not make a serious change in that portion of the territory under consideration lying east of the Mississippi River in Illinois and a portion of Wisconsin, but when applied to the territory west of the Mississippi it appeared to work a general

reduction in the rate level. To provide for this latter situation, the territory west of the Mississippi River was divided into two additional scale territories and an arbitrary increase over the basic scale rate was applied to them based principally upon considerations of traffic density. A tentative division of three sections is shown upon the accompanying chart A, and scales I, II, and III were suggested for application within these divisions. The western boundary of

CHART A.—Territorial divisions originally suggested for application of Lorenz scales.



scale II territory is the ninety-seventh degree of longitude. The basic scale is scale I. Scale II rates are upon a basis 20 per cent higher than the tentative scale I, and scale III rates 50 per cent above the tentative scale. One of the considerations in fixing these different rate levels was traffic density. Arbitrary boundaries were drawn, based upon a decreasing density as a westward progression is made.

Following is the complete table showing the Lorenz scales for distances up to 1,200 miles:

*Proposed distance scales for cement, western trunk line territory and adjacent territory.*

[Scale I, Illinois and Southern Wisconsin, scale II, northern Wisconsin, northern Michigan, southern Minnesota, Iowa, Missouri, eastern Kansas, eastern Nebraska, and eastern South Dakota; scale III, northern Minnesota, North Dakota, and territory west and southwest of territory to which scale II applies, so far as necessary to adjust rates involved in this proceeding. Minimum weight, 50,000 pounds; rates in cents per 100 pounds.]

\*This represents the terminal charge.

In order to obviate a sudden break in rates in connection with a haul from one territory to a destination within another territory, a scheme was devised for having the rate reflect only that portion of the haul which was within the territory to which the rate applies. For instance, if it be required to find the rate from Mankato, Minn., to Madison, Wis., the following calculation would be made:

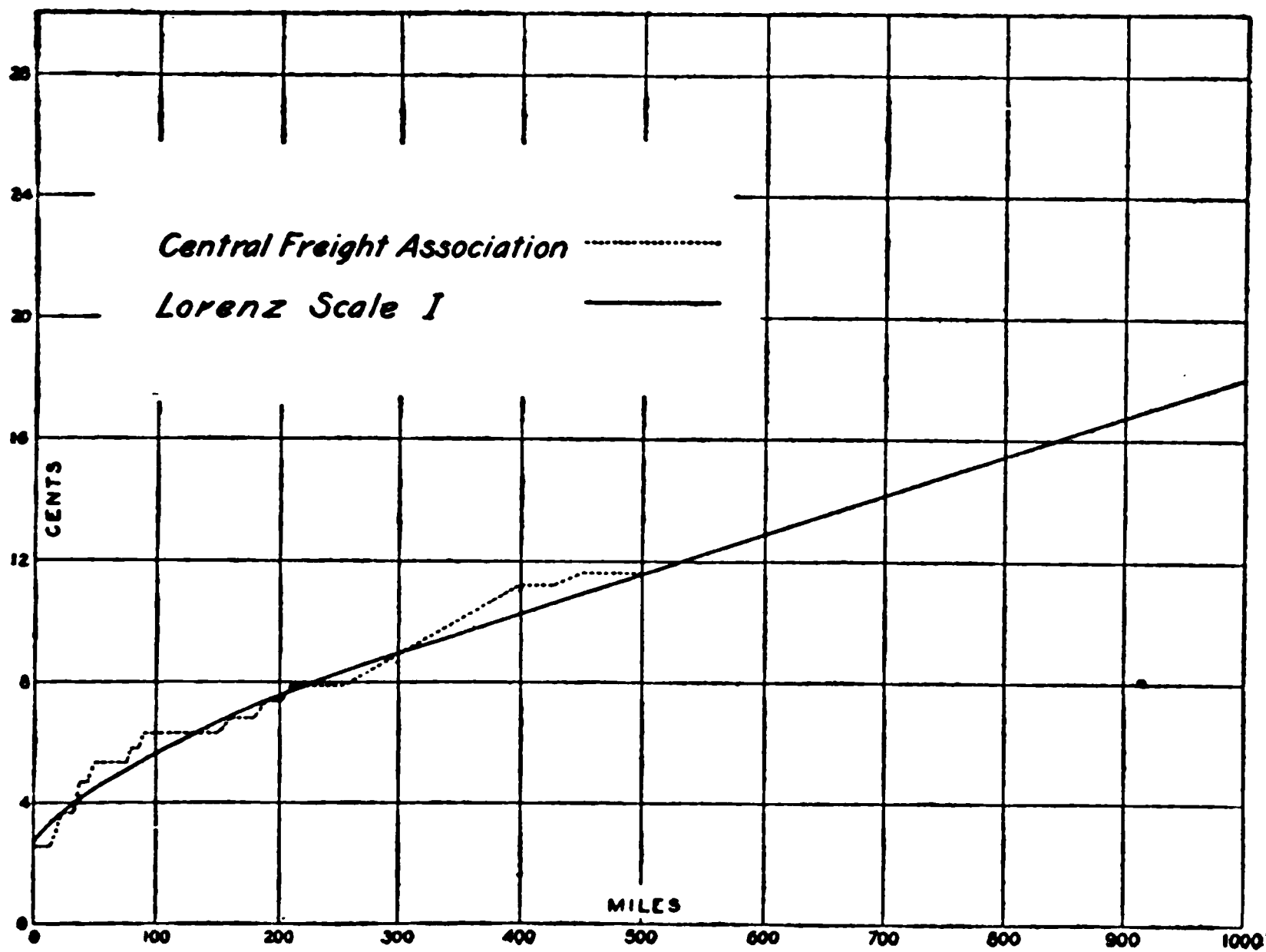
The distance from Mankato to Prairie du Chien, Wis., is 190 miles and to Madison 98 miles farther, or a total distance of 288 miles via the shortest route. Figuring the rate first from Mankato to Madison, the first 190 miles is under scale II, or 8.8 cents; the next 98 miles is under scale I, and the difference in the rates at 190 miles and 288 miles, both under scale I, is 1.5 cents, giving a total of 10.3 cents. In the reverse direction we have 98 miles under scale I, or 5.6 cents, and the difference between 98 miles and 288 miles under scale II, or 3.7 cents, giving a total of 9.3 cents. The average of 9.3 and 10.3 is 9.8, which is the rate to apply. The existing rate is 10 cents.

On account of the overlapping of central freight association territory and western trunk line territory in Illinois, a comparison of the central freight association scale on cement and Lorenz scale I will be made. The central freight association cement scale is constructed upon the basis of 73.33 per cent of the sixth-class mileage scale applied to the shortest possible distance to some 150 basing points and 73.33 per cent of the going sixth-class rate at intermediate points, with the basing point rate as a maximum. The central freight association scale up to 500 miles is as follows:

Miles.	Cents.	Miles.	Cents.	Miles.	Cents.	Miles.	Cents.
5	2.6	120	6.8	240	7.9	375	10.5
10	2.6	140	6.8	250	7.9	400	11.2
40	4.5	160	6.8	275	8.4	425	11.2
60	5.3	180	6.8	300	8.9	450	11.6
80	5.8	200	7.4	325	9.5	475	11.6
100	6.3	220	7.9	350	10.0	500	11.6

It will be noted that there is a close similarity between the above table and Lorenz scale I for distances between 130 and 320 miles. A diagram (chart B) showing this similarity in a graphic way is appended.

CHART B.—Showing similarity between Lorenz scale I and central freight association cement scale.



Illustrations of how these proposed rates compare with existing rates are given in the following table. It is assumed that the minimum weight will in all cases be 50,000 pounds. The “present” rates referred to in the tables are found in the Commission’s exhibit giving rates from 25 points of origin of cement to 400 destinations.

PRESENT AND PROPOSED RATES BETWEEN POINTS UNDER SCALE I.

To—	From Chicago.		From La Salle.		From Hannibal.	
	Present.	Proposed. <sup>1</sup>	Present.	Proposed. <sup>1</sup>	Present.	Proposed. <sup>1</sup>
Rockford.....	15	5.3	14.5	5	17.8	8.4
Peoria.....	16	6.6	15	4.8	18	6.6
Quincy.....	17	8.5	16	7.3	14.8	3.5
Springfield.....	18	7.3	16	6.1	16	5.9
Danville.....	16	6.3	16	6.6	17	7.8
Mount Carmel.....	17.5	8.2	17.5	8.2	18	8.4
Centralia.....	17	8.4	16	7.5	16	7.2
Cairo.....	18	9.8	18	9	18	8.4
Eau Claire.....	110	9	110	9.2	113	11.1
Green Bay.....	19	7.5	19	8.4	112	13.3
Madison.....	18.5	6.3	18.5	6.5	111	9
Milwaukee.....	16	5.3	17	6.8	110	9.6
St. Paul.....	110	10.2	110	9.9	110	10.6
Minneapolis.....	110	10.3	110	10.1	110	10.7

PRESENT AND PROPOSED RATES BETWEEN POINTS UNDER SCALE II.

To—	From Mason City.		From Bonner Springs.		From Iola.	
	Present.	Proposed. <sup>1</sup>	Present.	Proposed. <sup>1</sup>	Present.	Proposed. <sup>1</sup>
Winona.....	<sup>1</sup> 6	7.7	<sup>1</sup> 14.5	13.5	<sup>1</sup> 15	15
Albert Lea.....	<sup>1</sup> 6	5	<sup>1</sup> 14.5	12	<sup>1</sup> 15	13.3
New Ulm.....	<sup>1</sup> 9	7.5	.....	.....	.....	.....
Pipestone.....	<sup>1</sup> 10.5	8.8	.....	.....	<sup>1</sup> 17.5	13.6
Appleton, Minn.....	<sup>1</sup> 13.4	9.9	.....	.....	.....	.....
Ottumwa.....	<sup>4</sup> 9.6	8.6	<sup>1</sup> 10	9.5	<sup>1</sup> 12.5	11
Dubuque.....	<sup>1</sup> 7.3	8.2	<sup>1</sup> 11	12.3	<sup>1</sup> 15	13.6
Creston.....	<sup>1</sup> 9.5	8.8	<sup>1</sup> 10	8.2	<sup>1</sup> 12.5	10.1
Sioux City.....	<sup>2, 5</sup> 8.4	9	<sup>6</sup> 13	10.5	<sup>2, 6</sup> 13	12
Joplin.....	<sup>1</sup> 13	13.8	<sup>7</sup> 8	8.2	<sup>7</sup> 8	6.7
Kirksville.....	<sup>1</sup> 11	9.7	<sup>1</sup> 9	8.4	<sup>1</sup> 12.5	10.1

<sup>1</sup> Minimum, 50,000 pounds.  
<sup>2</sup> Lowest of the rates quoted.  
<sup>3</sup> Minimum, 50,000 pounds, but a 6-cent rate is given with a 24,000-pound minimum.  
<sup>4</sup> Minimum, 40,000 pounds.  
<sup>5</sup> Minimum, 60,000 pounds; a rate of 9.12 cents appears with a 50,000-pound minimum.  
<sup>6</sup> Minimum, 38,000 and 50,000 pounds.  
<sup>7</sup> Minimum, 50,000, 38,000, and 30,000 pounds.

PRESENT AND PROPOSED RATES BETWEEN POINTS INVOLVING MORE THAN ONE SCALE.

	Present.	Proposed. <sup>1</sup>		Present.	Proposed. <sup>1</sup>
From Chicago to—			From Mason City to—Con.		
Ashland, Wis.....	<sup>1</sup> 12	11.3	Jamestown, N. Dak.... { <sup>1</sup> 26 } 14.6		
Cedar Rapids, Iowa.....	<sup>1</sup> 10	8.6	Pierre, S. Dak..... { <sup>1</sup> 23 } 14		
Moorhead, Minn.....	<sup>2</sup> 20	15.3	Kearney, Nebr..... { <sup>1</sup> 20.5 } 13.2		
Sioux City, Iowa.....	<sup>1</sup> 13	13.1	Dodge City, Kans..... { <sup>1</sup> 25 } 17.4		
Springfield, Mo.....	<sup>1</sup> 14.5	12.9	From Iola, Kans., to—		
Jamestown, N. Dak....	<sup>1</sup> 29	17.3	Springfield, Ill..... { <sup>1</sup> 16 } 11.6		
Pierre, S. Dak.....	<sup>1</sup> 27	18	Ashland, Wis..... { <sup>1</sup> 17.5 } 17.6		
Kearney, Nebr.....	<sup>1</sup> 25	16.7	Kearney, Nebr..... { <sup>3</sup> 20 } 12.5		
Dodge City, Kans.....	<sup>1</sup> 27.5	18.4	Dodge City, Kans..... { <sup>4</sup> 15 } 11.9		
From Mason City to—			From Ada, Okla., to—		
Springfield, Ill.....	<sup>1</sup> 12	10.8	Springfield, Mo..... { <sup>4</sup> 13 } 12.4		
Ashland, Wis..... { <sup>1</sup> 12 } 10.9			Sioux City, Iowa..... { <sup>6</sup> 18 } 17.4		
Moorhead, Minn..... { <sup>1</sup> 9 } 10.9					
	<sup>1</sup> 16 } 12.9				
	<sup>1</sup> 16.2 }				

<sup>1</sup> Minimum, 50,000 pounds.  
<sup>2</sup> Minimum, 50,000 and 40,000 pounds.  
<sup>3</sup> Minimum, 38,000 and 30,000 pounds.  
<sup>4</sup> Minimum, 30,000 pounds.  
<sup>5</sup> Minimum, 50,000 and 30,000 pounds.

The criticisms of the plan are twofold, first, those directed toward special features of this particular plan, and second, objections which would lie to any distance plan. Among the objections in the first category are these: The method of compiling the scales is too laborious to apply in practice, it being represented by the carriers that it would take too lengthy calculations to fix the rates between points not in the same territory on the basis of a determination of the correct distance to and beyond the territorial boundary; that the division of scale I and scale II territory at the Mississippi River is improper, there being no sufficient difference in traffic conditions to warrant such a division; also that such a division would result in certain important instances, as in the case of the traffic from St. Louis to St. Paul, in the setting of lower rates via routes east of the Mississippi than by shorter routes west of the river; that existing rates in North Dakota would be radically reduced by scale III; and that

under the tentative scale the carrier having the long route to a competitive destination must shrink the measure of the rate to that of the short line and so fail to receive the rate for the actual distance hauled by an estimated average of 10 per cent. Objections made in principle to a distance scale are its lack of flexibility, that it does not take account of commercial conditions, that it makes no allowance for fourth section departures, that it disregards such factors in rate making as commercial and water competition, giving effect only to the element of distance, that in this territory where rates have heretofore generally been made on the grouping principle a distance plan will disrupt the rate structure, and that no such condition prevails with respect to rates on cement in western trunk line territory as to require such a rate upheaval. In general the carriers professed to fear that if applied to the shortest possible distance with observance of the long-and-short-haul clause of the fourth section their revenues would be reduced somewhat even if commercial conditions did not compel a departure from the scale downward in certain important movements.

## OTHER PROPOSED ADJUSTMENTS.

A witness for the Universal Portland Cement Company presented a plan of adjustment, which will hereinafter be distinguished as the Universal group plan, in which rates were named from the most important of the cement-producing points to certain important markets designated as key points, the carriers being expected to check in the intermediate rates. The important key points named by the witness for this company are St. Paul; Sioux Falls, S. Dak.; Sioux City, Iowa; Omaha, Nebr.; Kansas City, Mo.; St. Louis; and Chicago. These key rates are as follows:

*Present and proposed rates, Universal group plan.*

To—	From Chicago.	From La Salle.	From Hannibal.	From St. Louis.	From Mason City.	From Des Moines.	From Duluth.	From Iola district.
<b>St. Paul:</b>								
Present rate.....	10	10	10	10.5	6	8	6	15
Proposed rate.....	11	11	11.5	12.5	6.5	8.5	6.5	16
<b>Sioux Falls:</b>								
Present rate.....	13.5	13.5	13.5	14.5	10.5	10.5	13	17.5
Proposed rate.....	14	13.5	13.5	14.5	10	10	13	14.5
<b>Sioux City:</b>								
Present rate.....	13	13	13	13	8.4	7.7	13	13
Proposed rate.....	13.5	13	12.5	13.5	8.4	7.7	13	13
<b>Omaha:</b>								
Present rate.....	12.5	11	10	10	8	7	13	10
Proposed rate.....	12.5	11	10	11	8	6.5	13.5	11
<b>Kansas City:</b>								
Present rate.....	12.5	11	10	10	11	9.5	.....	5
Proposed rate.....	12.5	11	9	9	11	9.5	15	6.
<b>Chicago:</b>								
Present rate.....	.....	4.5	6.5	7	10	.....	.....	15
Proposed rate.....	.....	6.3	8.9	8.9	10	12	13	15.5
<b>St. Louis:</b>								
Present rate.....	7	6.5	4	.....	12	10	.....	12.5
Proposed rate.....	8.9	7.9	6.3	.....	12	11	14.5	12

The witness illustrated the effect of this proposed adjustment by an exhibit giving the rates and distances from the leading producing points to 123 selected destinations. The basis upon which the determining rates in this plan were fixed was the practical judgment of the witness. Although presented as the plan of the Universal Portland Cement Company its final formulation was preceded by conferences at which many of the important cement producers and many of the carriers were represented. The carriers, with the exception of the lines serving the Kansas mills, gave their general adherence to the Universal group plan, which was also supported by the St. Louis, Des Moines, and Mason City mills.

As an alternative to the group plan, but, in his opinion, less desirable, the witness for the Universal Portland Cement Company presented a distance scale, which will hereafter be called the Universal distance scale. To show the extent of the agreement between the group rates and the distance scale and also the Lorenz scales above mentioned the following table has been prepared which shows the results of arranging the group rates to the 123 destination points in 25-mile blocks and then averaging the rates in each block in comparison with the Universal distance scale and Lorenz scale II for corresponding distances:

Table showing the Universal Company's group rate average in comparison with the Universal and Lorenz distance scales.

Miles.	U. P. C. average group rates.	Number of rates represented in the average.	Universal distance scale rates.	Lorenz scale II rates.
	a	b	c	d
16- 25.....	4.1	3	3.7	4.4
26- 50.....	4.3	10	4.5	5
51- 75.....	5.7	28	5.2	5.8
76-100.....	6.3	28	5.8	6.5
101-125.....	7	47	6.5	7.3
126-150.....	7.4	47	7.1	7.9
151-175.....	8.1	42	7.7	8.4
176-200.....	9	61	8.2	8.9
201-225.....	9.1	63	8.7	9.3
226-250.....	9.7	53	9.2	9.7
251-275.....	9.9	61	9.6	10.3
276-300.....	10.4	56	10	10.5
301-325.....	10.8	57	10.4	11.
326-350.....	11.5	42	10.7	11.4
351-375.....	12.1	53	11	11.8
376-400.....	12.4	25	11.2	12.3
401-425.....	12.3	44	11.4	12.6
426-450.....	13.3	29	11.6	12.9
451-475.....	13.7	32	11.9	13.3
476-500.....	14.3	26	12.5	13.6
501-525.....	14.7	16	13.1	14.1
526-550.....	13.8	11	13.8	14.5
551-575.....	13.4	9	14.4	15
576-600.....	14.8	8	15	15.3
601-625.....	17.3	2	15.6	15.6
626-650.....	15.9	4	16.3	16
651-675.....	15.5	1	16.9	16.4
676-700.....	16.5	1	17.5	16.8

For distances ranging from 100 miles to 400 miles the average deviation of rates in column *c* from those in column *a* is 0.5 of a cent, and of the rates in column *d* from those in column *a* is 0.2 of a cent.

A witness for the Lehigh Portland Cement Company, with mills at Mason City, Iowa, Mitchell, Ind., and Iola, Kans., also submitted a distance scale, although preferring the Universal group plan to a distance scale. This scale is higher than that of the Universal distance scale for distances under 525 miles.

A witness appearing on behalf of the Iola Cement Mills Traffic Association made a calculation of the cost of moving cement, segregating the terminal and line-haul service, on the basis of the annual reports of the Santa Fe, the North Western, the Burlington, and the Rock Island for 1914. His conclusion was that the operating expense, excluding return on capital, was 0.01238 cent per 100 pounds per mile for the road haul and 1.563 cents for the originating and terminal handling and switching. For 400 miles this would give an operating expense of 6.5 cents. To the expense of hauling cement for various distances, as found from this data, there was added a "profit" varying from 100 per cent, that is, per cent of operating expense and not of the investment, for distances under 20 miles down to 25 per cent at 1,000 miles. This range of percentage was admitted by the witness not to be based on anything else than his arbitrary judgment. The resulting scale, which will be called the Muller scale, is as follows:

*Muller scale.*

Cumulative terminal and road-haul cost per 100 pounds (cents).	Distance haul.	Combined road-haul and termi- nal charges per 100 pounds.	Ratio of gross profit on total cost.	Total profit
	<i>Miles.</i>	<i>Cents.</i>	<i>Per cent.</i>	<i>Cents.</i>
1.8166.....	Under 20	3.6	100	1.7894
2.0582.....	20- 40	4.1	100	2.0418
2.3058.....	40- 60	4.6	100	2.2942
2.5534.....	60- 80	5.1	100	2.5466
2.8010.....	80- 100	5.6	100	2.7990
2.0486.....	100- 120	5.9	95	2.8514
2.2962.....	120- 140	6.4	95	3.1038
2.5438.....	140- 160	6.9	95	3.3562
2.7914.....	160- 180	7.4	95	3.6086
4.0390.....	180- 200	7.9	95	3.8610
4.2866.....	200- 220	8.1	90	3.8134
4.5342.....	220- 240	8.4	85	3.8658
4.7818.....	240- 260	8.6	80	3.8182
5.0294.....	260- 280	9.1	80	4.0706
5.2770.....	280- 300	9.5	80	4.2230
5.5246.....	300- 320	9.7	75	4.1754
5.7722.....	320- 340	9.8	70	4.0278
6.0198.....	340- 360	9.9	65	3.8802
6.2674.....	360- 380	10	60	3.7326
6.5150.....	380- 400	10.1	55	3.5850
6.7626.....	400- 420	10.5	55	3.7374
7.0102.....	420- 440	10.5	50	3.4898
7.2578.....	440- 460	10.9	50	3.6422
7.5054.....	460- 480	10.9	45	3.3946

*Muller scale—Continued.*

## III

The result of rapidly diminishing the rate of profit as the distance increases was to make the total profit to the carrier greatest at some of the shorter distances. Thus, in the block 260-280 miles the total rate is given as 9.1 cents, the cost as 5 cents, or a profit of 4.1 cents, whereas at twice that distance, 520-540 mile block, the rate is 11.8 cents, the cost 8.2 cents, or a profit of 3.6 cents per 100 pounds. On the other hand the rate of profit allowed by the witness on cement appears to average higher than on all business, taking into consideration the average hauls. The scale proposed is approximately on a level with Lorenz scale I. The witness also presented exhibits designed to show that the density of traffic on the lines over which cement moved in eastern Kansas in 1916 was greater than the density in the states of Illinois, Iowa, Minnesota, and Wisconsin in 1915, taking all the lines in those states, branch lines as well as main lines.

Through other witnesses the Iola Cement Mills Traffic Association offered a plan of adjustment which was called a "scientific group and zone basis." Under this plan certain points of origin are grouped into districts and each important consuming point is given rates to "permit the various producers and carriers, respectively, to

compete for its business." The differentials to these markets are to be observed as maxima for the future. To other points than the principal consuming markets a distance scale is applied. Rates to the principal markets are to be maxima for intermediate hauls. The distance is to be figured via the shortest routes by which the rates apply, and the rate scale of the destination territory is to apply regardless of the point of origin, although this was later modified as shown below. Two carload minimum weights of 50,000 pounds and 38,000 pounds are suggested, to be optional with the shipper, with rates 13 per cent higher for the latter. State and interstate rates and minima, it was urged, should be on the same basis.

The proposed group and zone rates to important key points as compared with present rates are as follows:

*Present rates to important markets and rates proposed by the Iola Cement Mills Traffic Association.*

To—	From Buf- fington.	From La Salle district.	From Mason City.	From Hannibal.	From St. Louis (Pros- pect Hill).	From Duluth.	From Des Moines.	From Sugar Creek and Bonner Springs.	From Iola district.
<b>Milwaukee:</b>									
Present....	6	7	10	10	11	10	12	12.5	20
Proposed..	7	7	9	9.5	10	10	10	11	12.5
<b>Chicago:</b>									
Present....	3	4.5	10	6.5	7	12	12.5	12	15
Proposed..	3.5	4.5	9.5	8	8.5	11	9.5	10.5	12
<b>St. Louis:</b>									
Present....	7	6.5	12	4	1	.....	10	10	12.5
Proposed..	8.5	8	10.5	4.5	2.5	13.5	9.5	8.5	10
<b>St. Paul:</b>									
Present....	10	10	6	10	10.5	.....	8	14.5	15
Proposed..	11	10	6.5	11	12	.....	8.5	11	12.5
<b>Omaha:</b>									
Present....	12.5	11	8	10	10	13	7	8.5	10
Proposed..	11.5	10.5	8	9.5	10.5	12	7	8	9.5
<b>Kansas City:</b>									
Present....	12.5	11	11	9	10	.....	9.5	1.5	5
Proposed..	11	10.5	9.5	8	8.5	12.5	8	2.5	5

For ascertaining other rates than the above, a distance scale is provided to apply to territories I and II as outlined in the Lorenz plan, nominally approximating Lorenz scale I in that plan, but actually somewhat higher because the Iola scale is to be applied to the tariff routes by which rates ordinarily apply instead of to the shortest possible routes. If the above combination adjustment, that is to say, the group and zone rates to the named key points and distance rates to intermediate points, is not acceptable, the alternative of a straight distance plan is offered for application in the same territory. The level of the rates under the latter proposed distance plan is about 95 per cent of the combination plan suggested.

The western boundary of the territory to which the above plans of the Kansas gas belt group of mills are to apply is an irregular line of railroad routes near the ninety-seventh degree of longitude.

The Kansas gas belt mills are thus placed in the same territory with the principal western trunk line mills. West of this territory a witness for the Iola Cement Mills Traffic Association proposed a general distance adjustment intended to approximate as nearly as possible the existing rates. The scale proposed for this western territory by this witness is 50 per cent higher than the scale for the territory east thereof, called standard rate territory. For hauls from standard rate territory to western territory, the lower scale is to be taken for the entire distance, with an increase accorded to the western territory scale for that part of the haul lying in the western territory. This western distance rate scale is very close to Lorenz scale III, and is to be applied via the routes over which the rates ordinarily apply, short line, instead of via the shortest possible route. Cross-examination developed that the proposed scale would reduce radically many of the rates in North and South Dakota.

The general traffic manager of the Atlas Portland Cement Company, while preferring the existing status of cement rates in this territory, and believing that it would be grossly injurious to established plants if a strict distance scale were prescribed, nevertheless presented a distance scale of rates to serve as a measure of the relationship of the rates rather than of their reasonableness. His aim was to give a scale which would give carriers their present earnings. It was to apply east of the Missouri River, with the addition of arbitraries for the territory west thereof. He admitted that his scale would radically raise the existing rates in Illinois. The scale was derived from a consideration of the two-line state cement scales in Iowa and Minnesota. The initial rate for 5 miles was arbitrarily set at 5 cents, successive rates gradually approaching Lorenz scale II, being practically identical with it after 210 miles. In the application of a distance scale, the witness would except the large centers, but on the other hand, rates to and from these points, in his opinion, should reflect what he regards as the increased terminal expense at such centers. The witness offers no proof that a rate for cement as high as 5 cents for 5 miles was necessary or reasonable to cover the switching expenses even at large centers.

The witness for the Burlington, while opposed to a change in the present adjustment in Nebraska, offers his suggestion of a distance scale if a distance adjustment is to be considered. He takes as a basis Lorenz scale III after reducing the terminal charge from 4.2 cents to 3 cents. To Nebraska destinations on and east of a line drawn through Central City, Grand Island, Hastings, and Lester, 140 per cent of the road-haul charge provided under Lorenz scale III is applied plus a 3-cent terminal charge. To points west of this line 160 per cent of the road-haul charge is used plus the 3-cent ter-

minal charge. For instance, to find the rate from Mason City to Scottsbluff, Nebr., for a distance of 688 miles, the terminal charge of 4.2 cents is first deducted from the rate of 21 cents given under Lorenz scale III, leaving 16.8 cents as the road-haul charge. One hundred sixty per cent of 16.8 cents is 26.88 cents; adding 3 cents terminal charge we obtain 29.88 cents, which is the rate to apply. The same scale is suggested for application in South Dakota, this basis to apply whether the point of origin is located east or west of the Missouri River. The witness offered the above scale for application as a maximum basis, it being contemplated that the long lines must meet short-line competition and that the short-line rates would apply as a maximum to a great deal of the intermediate territory.

An exhibit was offered by the witness comparing the existing rates with rates proposed under the Burlington scale to Nebraska stations from the Iola district and Mason City. It was shown that the scale would increase some existing rates and reduce others. The reductions apparently offset the increases. The existing spread between Mason City and the Iola district is, as a rule, decreased. As a rule the distance from Mason City to Nebraska destinations is less than the distance from the Kansas gas belt, at least to destinations on the Burlington. If a distance basis is to be adopted within the territory east of the Missouri River, the witness proposes that the scale should not be less than Lorenz scale III, with the terminal charge reduced to 3 cents.

Considerable attention has been given in the testimony to the proper differences in rate levels in various portions of this territory. It appears that there is no clear geographical delimitation of higher and lower rate territories in existing rates on cement or other commodities, and it is difficult to establish proper relationships on the basis of density of traffic. Certain sparsely settled regions have a heavy traffic per mile of line. On the basis of density per mile of line, it was shown by the witness for the Nebraska State Railway Commission that the traffic density was greater in western Nebraska than in eastern Nebraska, and it was contended that these sections could not properly be considered separate rate territories, although the population per square mile is much greater in eastern than in western Nebraska. The relatively large amount of what is known as bridge business, that is to say, traffic which travels entirely across the state without stopping therein, and the preponderance of main-line mileage over branch-line mileage owing to the relative absence of the latter in western Nebraska, account for this situation.

A witness for the Public Utilities Commission of Kansas showed that on the basis of population and value of farm products a higher rate level was not warranted between the ninety-seventh and ninety-

eighth meridian than between the ninety-sixth and ninety-seventh meridian. A witness for the Burlington gave the following data regarding the density of traffic by states on the basis of the reports of state commissions for the year ended June 30, 1916:

State.	Revenue tons 1 mile per mile of road.	State.	Revenue tons 1 mile per mile of road.
Illinois.....	1,877,870	Wisconsin.....	1,075,461
Iowa.....	791,802	Kansas.....	702,210
Missouri.....	1,000,282	Nebraska.....	748,705
Minnesota.....	1,311,972	South Dakota.....	342,811

The combined figures for Illinois, Iowa, Missouri, Minnesota, and Wisconsin indicate a density of 1,265,717 ton-miles per mile of line as against 542,514 for Kansas, Nebraska, and South Dakota. The difference in rates which should be associated with a given difference in density can at present be only approximately determined by the exercise of practical judgment.

#### GENERAL POSITION OF THE CARRIERS.

The general views of the carriers with respect to the advantages of a group over a distance adjustment are given by a witness for the Chicago Great Western, who speaks for all the western trunk line carriers except so far as individual lines offer evidence to the contrary. He gives the history of the Chicago-St. Paul rate since 1902, and shows the various influences which have affected it. Distance, the witness states, has entered only incidentally into the establishment of rates in this territory, and other influences have operated to a greater degree in determining particular bases. The distance basis, especially in view of our attitude with reference to the fourth section, is considered "wholly impracticable," and it is the view of the carriers that it will be necessary to continue rates in the territory in question on the basis of some sort of a grouping plan, which is substantially the basis prevailing in the past. In checking out rates under a distance tariff via the routes of different carriers where the short line makes the rate, if intermediate points via the longer lines can not exceed the terminal rate, the result will be a scale of rates via these lines which is substantially below the distance tariff. In other words, the distance tariff would simply be a maximum basis upon which to check out the rates.

As an illustration, the haul from St. Louis to St. Paul is cited. The route via the Burlington, 573 miles, which is wholly within scale I territory, would yield a rate of 12.5 cents under the Lorenz scale. The competitive routes via the Wabash and Minneapolis & St.

Louis or Wabash and Chicago Great Western lie wholly within scale II territory, and the shortest distance through this territory would be 539 miles, which under scale II would yield 14.4 cents; but without relief from the fourth section the carriers in scale II territory would be limited to the maximum rate of 12.5 cents made by the Burlington through scale I territory. While this situation arises from the division of scale I and scale II territory at the Mississippi River, the difficulty will not be entirely obviated by a merging of the territories because the longer lines would still be restricted under the rule of the fourth section to the rate at the terminal point determined by the shorter distance of the direct line. An exhibit was offered by the witness showing how a distance scale would affect St. Paul traffic from each of the producing points, Chicago, La Salle, Hannibal, Kansas City, St. Louis, Mason City, and Des Moines. For example, the short line from Chicago to St. Paul via the North Western is given as 396 miles and the long line of the Rock Island 512 miles. The rate over each route is the same. The long route can receive only the rate for 396 miles for the distances via its line between the terminal and certain intermediate points. A similar situation exists as to the other producing points. If a basis be adopted which is high enough to permit observance of the fourth section, it would be unfair to points located on the direct line.

If any change is made in the present basis of rates, the carriers suggest the adoption of the Universal group plan with a few slight modifications. The proposed plan, it is stated by this witness and several others, would disturb existing conditions the least, will reduce fourth section departures to a minimum, and will preserve the present revenues of the carriers. Some reductions are proposed along with some increases. The witness subsequently admitted that the proposed group plan might raise some carriers' revenues between 5 and 10 per cent.

#### ATTITUDE OF STATE COMMISSIONS, PRODUCERS, AND INDIVIDUAL CARRIERS.

During the extended hearings which were held in this investigation, full opportunity was given all parties to develop their various contentions. The carriers subdivided the territory, and certain ones devoted special effort to a defense of particular adjustments, in addition to expressing their individual views. The producers developed the situations relative to the territory covered by their complaints of record and the investigation and suspension cases to which they were parties, in addition to particular features of the general case. Nearly all of the railroad commissions of the states within the scope of the investigation entered appearances and some evidence was presented in behalf of individual commissions.

## EFFECT UPON THE CARRIERS' REVENUES OF THE LORENZ AND OTHER SCALES.

An attempt was made to ascertain how the various proposed scales, if actually prescribed, would affect the carriers' earnings. Both carriers and shippers agreed to furnish statements showing the actual charges on their cement traffic in September, 1915, that month being agreed upon as being as fairly representative as any one month could be. The reports made by both carriers <sup>1</sup> and shippers in a general way constitute independent testimony as to the effect of the proposed plans. The general conclusion is that the Universal group plan would tend to raise interstate rates somewhat, would leave state rates at about their present level, except in Illinois where both interstate and state rates are on a very low basis, making a substantial net increase in the total revenues of carriers as shown below. The Lorenz scales, if applied to all business according to the shortest possible route, would have decreased interstate charges somewhat, and would have increased decidedly the intrastate revenue, especially in Illinois, leaving a very small net change in the carriers' total revenues. The results of the estimates under these two plans are shown in the following table:

*Cement traffic for September, 1915.*

Plan.	Revenue under present rates for all business reported by shippers and carriers, respectively.	Estimate <sup>1</sup> of revenue under plans specified.	Per cent of increase or decrease.
"Universal group":			
Reported by shippers.....	\$449,875	\$483,194	<sup>2</sup> 7.4
Reported by carriers.....	374,165	395,126	<sup>2</sup> 5.6
"Lorenz" scales:			
Reported by shippers.....	481,665	485,396	<sup>2</sup> 0.8
Reported by carriers.....	502,605	494,111	<sup>2</sup> 1.7

<sup>1</sup> Distance has been estimated via the shortest possible route. Carriers' reports are more complete than shippers', and account for divergences in totals.

<sup>2</sup> Increase.

<sup>2</sup> Decrease.

When we turn to a consideration of the relative level of state and interstate rates, only a part of the reports can be used. According to the shippers' estimates, the result is as follows:

<sup>1</sup> After the reports were received, their contents were summarized, and the figures appearing in the pages immediately succeeding are taken from a summary of these reports, which was made by the Commission. At the November, 1916, hearing some questions arose as to the accuracy of the figures submitted by certain carriers, and in these cases revised figures were afterwards submitted. The revised exhibits do not, however, affect the totals sufficiently to necessitate a revised compilation.

	State.		Interstate.	
	Present revenue.	Lorenz scales.	Present revenue.	Lorenz scales.
Amount.....	\$88,225	\$98,351	\$365,981	\$359,602
Per cent.....	11.48 per cent increase.		1.74 per cent decrease.	

According to carriers' statements, using the reports of the Union Pacific, Burlington, Minneapolis & St. Louis, Milwaukee, and North Western, the result is as follows:

	State.		Interstate.	
	Present revenue.	Lorenz scales.	Present revenue.	Lorenz scales.
Amount.....	\$76,976	\$85,648	\$288,778	\$272,480
Per cent.....	11.27 per cent increase.		5.65 per cent decrease.	

A number of carriers give data showing the difference in revenue which would accrue when the Lorenz scales are applied according to the short workable distance and the shortest possible distance:

	Revenue under Lorenz scales.	
	Short workable routes.	Shortest possible routes.
Amount of freight charges.....	\$304,515	\$293,607

The percentage by which revenue by the short-line workable route exceeds the revenue by the shortest possible route is 3.7.

For a smaller number of carriers we can make a threefold comparison:

	Revenue under Lorenz scales.		
	Actual route (A).	Short workable route (B).	Shortest route (C).
Amount of charges.....	\$137,480	\$133,827	\$127,250

Excess, A over B, 2.73 per cent; A over C, 8.04 per cent; B over C, 5.17 per cent.

The North Western also shows on its line a revenue derived under the Lorenz scales of \$68,017 when the shortest possible distance is used regardless of fourth section departures. The observance of 48 I. C. C.

the fourth section would reduce this revenue to \$67,808, or 0.3 of 1 per cent. The average load per car as shown in the statements of the carriers is 32.2 tons. The average loading upon which the Lorenz scale is based is 30 tons.

Other exhibits indicate that the effect upon the carriers' revenues of the scales proposed by the several witnesses for the Kansas gas belt mills would considerably reduce these revenues, and it is clear that the Atlas Company's scale would cause a radical increase. In connection with such estimates it must be remembered that they rest upon the assumption that the carrier is able to secure the proposed rate in each case, and the cutting of one important rate for each carrier would greatly affect the showing. The effect upon each carrier is not the same as the effect upon all carriers taken together. The estimates of important systems appear as Tables 1 to 7 of the appendix.

Upon a chart showing state and interstate averages it was evident that no single scale could pass through all of the points, but it was clear that exclusive of Illinois, for territory involved in this proceeding east of the Missouri River and not including North and South Dakota, scale II would be a fair maximum standard if used in connection with the short-line workable route instead of the actual or shortest possible route. For 16 carriers reporting car-miles by the actual, short-line workable, and shortest possible routes, aggregating 7,218 cars, the average haul per car was as follows: Actual route, 220 miles; short-line workable, 205 miles; shortest possible, 189 miles. Thus the actual route is 7.3 per cent above the short-line workable route.

It is apparent that any scale prescribed should be somewhat higher than the level indicated by the average earnings shown, since the latter are based upon the actual distance while the scale is applied via the short line. It may be observed that the average earnings on all business reported in the carriers' exhibits, exclusive of Illinois, is 9 cents for an actual haul of 244 miles. Lorenz scale II for that distance is exactly 10 per cent above 9 cents.

A study of the chart showing state and interstate averages indicates no irreconcilable lack of harmony between state and interstate rates, as respects many of the states. The situation, however, is of great importance in Illinois, where both classes of rates are unduly low, and should be raised together. The Illinois commission, although represented at the hearing, presented no evidence. The Iowa single-line rates are low as compared with the scales suggested in this case. This is also true of Minnesota rates for short distances.

## THE ADJUSTMENT FROM THE KANSAS GAS BELT.

Carriers serving the territory between the Mississippi and the Missouri rivers aver positively that a higher level of rates exists west of the Missouri River than east thereof, and that, inasmuch as the Kansas gas belt group of mills lies within the trans-Missouri territory, rates from those mills into inter-river territory should be upon a higher level than rates east of the Missouri River. In a broad territorial adjustment of the character now before us, they contend that the rate level throughout the entire territory should be considered, and not special conditions which in some sections may cause a lower level than elsewhere throughout the territory as a whole. At the hearing it developed that the haul from the gas belt to points between the rivers in most cases was through the Kansas City gateway, and it is urged by the carriers that for the portion of the haul from the gas belt to destinations north or east of Kansas City the haul up to Kansas City should reflect the higher rate level in the trans-Missouri territory.

In opposition to the extension into any portion of Kansas or the territory west of the Missouri River of the lower rate level existing between the rivers, it is contended that if a beginning be made it will immediately afford the opportunity for further and indefinite extensions still farther west. The answer to this contention would appear to be that unless we recognized a change in conditions with the development of traffic, there would never be any changes in rate levels and never any readjustments of rates. As we said in *State of Kansas v. A., T. & S. F. Ry. Co.*, 27 I. C. C., 673, the primary question is whether the rates, in whatever manner they are constructed by the carriers, are reasonable and free from undue discrimination.

In *Ash Grove Cement Co. v. A., T. & S. F. Ry. Co.*, 23 I. C. C., 519, decided in 1912, certain cement mills in the gas belt district attacked their rates to destinations in Missouri, Iowa, Nebraska, South Dakota, Montana, Colorado, Oklahoma, and Texas, and a table of existing and proposed rates with average distances and revenues per ton-mile, together with the number of destinations in each state affected, was set forth as follows:

	Points.	Distance.	Effective rate.	Corresponding ton-mile earnings.	Complainants' proposed rate.	Complainants' proposed ton-mile earnings.
Missouri.....	Kansas City...	109	7.5	13.76	4	7.24
	15.....	199	10.6	10.65	9	9
	15.....	221	12.5	11.3	10	9
Iowa.....	31.....	394	14.7	7.46	12	6.09
Nebraska.....	106.....	381	21	11	18.56	9.74
South Dakota.....	39.....	633	27.46	8.67	20.2	6.38
Montana.....	14.....	1,275	49.7	7.8	42.7	6.7

In referring to the somewhat high ton-mile earnings shown in the above table for a commodity of the value and character of cement we stated that this factor is but one of many to be considered in reaching a conclusion as to a proper level of rates. We found in that case that except to distant points traffic moved freely under the existing rates and that the complainants under their rate to Kansas City, which was then 7½ cents, with a 30,000-pound minimum, led in the volume of tonnage sold in that market as well as at many of the Missouri, Nebraska, and Iowa points whose rates were in issue in that proceeding. The record in that case showed that the Kansas mills sold about 90 per cent of the cement tonnage moving to Kansas City on the 7½-cent rate, against 10 per cent furnished by the local mill at 1½ cents plus a switching charge. In connection with the rate from points in the gas belt to Kansas City a history of its prior fluctuation was thus set forth:

	Cents.
Prior to July 5, 1904-----	7.5
July 5, 1904-----	5
September 3, 1904-----	4
September 20, 1904-----	5
January 1, 1905-----	7.5
September 25, 1909-----	5
January 14, 1910-----	7.5

We determined in that case that the 7.5-cent rate to Kansas City was not materially higher than other rates established by us in territory of denser tonnage, citing *Maritime Exchange v. P. R. R. Co.*, 21 I. C. C., 81. In the present case the gas belt interests claim that the falling off in their sales of cement is due to the present level of their freight rates, which they claim to be unreasonably high. Certain of their competitors, together with certain of the carriers, claim that this loss is due to other causes. In the *Ash Grove Case*, *supra*, we said on this point:

The record establishes that an overproduction of from 40 to 50 per cent in cement and a rapidly diminishing supply of natural gas which rendered manufacture cheap in the past have had a serious effect upon the cement trade in this field, and complainants' present troubles may be due to some extent to this cause

and we reached the conclusion that the interests of justice did not require the granting of the prayers of the petitioners as to Kansas City, Mo., or in Iowa, Nebraska, Colorado, South Dakota, or Montana.

Subsequent to the decision in the *Ash Grove Case*, *supra*, certain of the gas belt mills appealed to the Kansas state commission for relief against the rates within the state of Kansas. In consequence of this proceeding, that commission, in 1914, ordered in a rate of 6 cents to Kansas City, Kans., from the gas belt producing points.

Carriers sought by injunction to restrain the execution of the state commission's order. During the pendency of the injunction proceedings, the Missouri, Kansas & Texas Railway voluntarily established an additional rate of 5 cents to Kansas City, Mo., carrying a minimum of 60,000 pounds, from the gas belt producing points, thereby compelling the other carriers similarly to reduce their rates to the same figure.

#### GENERAL RATE COMPARISONS.

It may fairly be said that the shippers represented in these proceedings, other than the Kansas gas belt mills, did not direct any strong attack against the general level of cement rates. But a number of rate comparisons between cement and other commodities were offered. These tend to show that the existing cement rates, while generally ample, are not upon as high a level as we authorized in the *Ash Grove Case* or in the *Maritime Exchange Case* nor as high as the carriers published following our decision in *Alpha Portland Cement Co. v. B. & O. R. R. Co. et al.*, 22 I. C. C., 446, hereinafter referred to as the *Alpha Case*. Cement is a commodity loading heavily, moving in considerable volume, of low value per 100 pounds, requiring no special service, and occasioning only slight loss and damage claims. A witness for the South Dakota Board of Railroad Commissioners showed that between representative South Dakota stations on the Milwaukee and North Western on one hand and Chicago and Duluth on the other, rates on cement are considerably higher than those on grain and flour. A witness for the Public Utilities Commission of Kansas compared the earnings per car and per gross ton upon cement and other commodities in Kansas for various distances on the basis of the rates prescribed by the legislature.

#### OBJECTIONS TO VARIOUS ADJUSTMENTS.

The controversy as to cement rates is primarily between producers rather than between producers and carriers. Many projects of adjustment have been submitted, all of them, with the exception of the western adjustment proposed by the Burlington, being submitted by the cement companies themselves. There have been offered group adjustments, distance adjustments, and combinations of the two. The proposals of each producer have been objected to by its rival as being founded upon self-interest. The general attitude of the carriers is fundamentally that of protecting existing revenues, and with this attitude most of the producers seem to be in harmony. It is insisted, however, that certain rate irregularities, such as those alleged to exist against the La Salle mills in southern Wisconsin and at Milwaukee, against the gas belt

mills in western trunk line territory, and particularly east of the Missouri River, and against the Michigan mills in Wisconsin and the northern peninsula of Michigan, should be removed. Of the group plans offered, we agree with their critics that they are too highly colored by self-interest for them to be accepted in their entirety. For instance, the following is proposed by the gas belt mills, the distances used being taken from their exhibits:

	Miles.	Proposed rate.
Iola group to Kansas City.....	134	5
Mason City to St. Paul.....	144	6.5
Des Moines to Omaha.....	145	7
Buffington to Milwaukee.....	165	7

<sup>1</sup> Distance calculated via route rate applies.

Contrasting the conditions surrounding traffic from southeastern Kansas with those prevailing within the other districts included in the above comparison, we must conclude that there is no basis afforded by the gas belt group and zone plan for an equitable adjustment of rates.

The Universal group plan has the support of most of the carriers, and of a preponderance of the mills from the standpoint of output, the plan being indorsed by the two mills at Mason City, the mill at Des Moines, the two mills at St. Louis, and the mill at Sugar Creek, as well as by its proponents, whose mills are at Buffington and Steelton. Particular emphasis has been laid by its advocates upon its many advantages, such as that it takes into account the influence of market, carrier, and water competition; that it conforms to the requirements of the fourth section of the act as a distance scale can not possibly do; and that it will not affect the level of state rates except in Illinois, in other words, that it would least disturb the adjustment now existing of any of the plans offered. Its general effect will be to increase existing rates about 5 per cent. A plan which has the support of such a number of usually conflicting interests, a plan which most of them had some voice in preparing, must be seriously considered. The comparative revenue estimates of the carriers tend to indicate, however, that the level of the proposed rates is slightly higher than what prevails in the territory at present, and it does not accord due consideration to appropriate rates from the Kansas group of mills to important markets.

Various other objections are raised to the Universal group plan. The La Salle group objects to having its own rates increased to Illinois points. It also objects to the proposition of continuing Buffington upon the Chicago basis, likewise to the proposed adjustment in southern Wisconsin and at Milwaukee. The principal ob-

jections of the Hannibal mill to the plan are, first, the proposed increase, Hannibal to St. Paul from 10 cents, the present rate, to 11½ cents against the proposed rate from Buffington to St. Paul of 11 cents, thus taking Hannibal out of the Chicago group to St. Paul, and second, the proposed increase from Hannibal to Chicago from 6½ cents, the present rate, to 8.9 cents, without increasing by a like amount the rates of its competitors to this most important market in the territory. These considerations prove, it is urged, that existing relationships will be seriously disturbed if the Universal group plan is adopted. The criticism is also offered, although not by the St. Louis mills, which are willing to accept the increase, that the proposed rate of 12½ cents from St. Louis to St. Paul will be a departure from the basis of 105 per cent of the Chicago rate which generally prevails upon traffic to that destination from St. Louis. The Kansas gas belt objects that many of their present rates in this territory are unreasonably high; that these rates are now under attack in Docket 8019, which is consolidated with this investigation; and that the proposed plan contemplates a further increase in some of these rates; and it is also claimed that the Universal group plan will continue in effect the relative disadvantage under which they are now laboring in western trunk line territory generally.

Of the distance plans proposed, the two which have been most thoroughly worked out from the theoretical standpoint of railway economics are the Muller scale and the Lorenz plan. The inapplicability of the Muller scale has already been pointed out. We do not feel warranted in reducing existing cement rates generally in western trunk line territory to the level suggested by this scale which the witness would apply to the entire territory covered by Lorenz scales I and II.

#### THE PRINCIPLE OF A DISTANCE SCALE.

The two factors in the construction of a distance scale are the terminal charge and the road-haul charge. A witness for the Nebraska commission testified as to terminal costs, estimating the expense of originating a carload shipment at a switching service station and terminating it at a nonswitching service station to be 1.0059 cents per 100 pounds, but this figure does not include all of the operating expenses and neither interest nor taxes, and the witness could not estimate what amount should be allowed for these omissions. The terminal charge at best is speculative, and no method has yet been found of exactly computing it. To determine the rate for a given distance, there is added to the assumed terminal charge a certain amount to represent the road haul. Upon the rate of increase in the road-haul charge for successive distances depends

the level of the rates. If it be maintained that the policy of carriers should be to afford the widest possible latitude to competition, which is consistent with any return short of actual loss, the proponents of a distance scale will favor a low rate of increase for unit progressions, and this will result in relatively low rates for long distances. Thus, a distance scale directly reflects the purpose of its maker. No one contends that a carrier should be compelled to haul a commodity for less than cost, but an acceptable demonstration of what is the actual cost to a carrier of transporting a given commodity has yet to be determined, and the cost will vary upon different lines. Therefore, as a general rule, the reasonableness of rates is still determined according to the usual well-known methods, important among which are rate comparisons, distance, and considerations of traffic density and population.

The Kansas gas belt mills frankly admit that they desire a set of rates which will enable them to place their cement in far distant markets, and their distance scale reflects this purpose. It lowers many existing rates to important markets and while it is claimed that the readjustment of traffic would result in no decrease in the carriers' revenues this claim is vigorously disputed and the calculation made on the basis of traffic as it actually moved in September, 1915, tends to indicate that the Iola distance scales which are intended for application within the primary territory will materially decrease the carriers' revenues. For the contrary reason the Universal distance scale is criticized as tending unduly to increase these revenues.

Those who propose a system of rates, the avowed purpose of which is to promote long-distance competition, confuse an economic problem with a transportation problem. Primarily it is not our concern to equalize market competition. A shipper who comes to us with a proposition of this character urging that the difference in freight rate against him is what keeps him out of an important market near which a competitor is situated implies to a greater or less extent that the difference in freight rates represents the amount of his handicap. But freight is only one of the factors in a shipper's selling price. Among the cost factors figured by a shipper in laying down his product at a certain destination, fundamental and most important are his costs of production, including his costs of raw material and labor, and all of the elements which combined make up the cost of the finished product at his plant. These are secrets, perhaps the most closely guarded in the shipper's business. We can not overlook the fact that though a cement mill is located at a distance from important markets the location has presumably been selected advisedly and that due consideration has been given to the question whether its remoteness from these markets is balanced by compensating economies not available nearer the destina-

tions. The enormous movement over the Burlington from Hannibal to St. Paul, in spite of the rate handicap of 4 cents over Mason City; the very heavy tonnage from Hannibal to Chicago, with the Buffington and La Salle rate handicaps to overcome; to say nothing of the large movement from La Salle to St. Paul, where a similar handicap of 4 cents over Mason City must be overcome, demonstrates the fallacy of laying too much stress upon the factor of freight rate alone in the problem of marketing cement. We must not be understood, however, as opposed to any plan which will result in the making of reasonable rates for long distances. What we do consider as unwarranted is the formulation of a scale for the express purpose of affording long-distance competition at rates which are unreasonably low.

The Lorenz scales were developed with the basic idea of arriving at a system of rates which would yield the same revenue as present rates. After this theoretical scale was formulated, it was first tested by comparison with rates in existing tariffs. These comparisons are found upon pages 215 and 216 preceding, but the present rates therein shown are not necessarily via the short line, whereas the proposed rates are calculated via the shortest possible route, regardless of physical connections. The further comparisons offered by the shippers and carriers of actual revenue on September, 1915, traffic, compared with estimated revenue under the different proposed plans are illuminating. Nearly all of the parties offering exhibits made a comparison between the existing revenues and an estimate of the yield under the Lorenz scales, and many furnished similar estimates under other proposed plans. Representative comparisons are set forth in the appendix, Tables 1 to 7, inclusive.

Lorenz scales II and III are derived by increasing both factors of terminal and road-haul charges by 20 per cent and 50 per cent, respectively. The contention is made that the factor represented by the terminal charge should be the same under all of the Lorenz scales, which would result in a uniform reduction in the Lorenz scale II of 20 per cent of 2.8 cents, or 0.56 of 1 cent per 100 pounds, and of 1.4 cents in scale III.

Too much emphasis should not be placed upon the separate factors entering into the composition of rate scales. The important problem is the determination of the reasonableness and nondiscriminatory character of the entire rate and not that of its component parts. The Lorenz scales were originally offered as tentative scales designed to accord the same revenue as at present. Both producers and carriers have devoted both time and money to the compilation of exhibits for the purpose of testing the fairness of these scales as a whole. Months of labor along these lines were spent in the preparation of

exhibits and weeks of discussion at the hearings. We attach more probative force to the information thus obtained, which has included in many cases the practical application of the Lorenz scales to business actually moving, than we attach to a theoretically more consistent but untried plan of equalizing terminal charges. The evidence adduced at the hearings, as shown in the preceding pages hereof, indicates that Lorenz scales I and II are, generally speaking, fairly representative of a reasonable maximum rate for the territory within which they were intended to apply. If these rates are as a whole reasonable, the question as to whether or not the factor provisionally assigned as a terminal charge should be consistent throughout the entire territory is a relatively unimportant consideration.

The normal tendency of cement traffic is toward a comparatively short haul. Witness an exhibit of the Burlington showing the preponderance of traffic upon hauls of 175 miles and under; the showing of the Lehigh Portland Cement Company that out of a total of 3,700,000 barrels shipped in 1915 from Mason City, only 276,000 went to the Dakotas, Nebraska, Kansas, and Missouri combined, practically 3,000,000, about equally divided, going to destinations in Iowa and Minnesota, of which latter 525,000 were delivered to the twin cities; the further showing of the Lehigh Company that they would not regard it as good business policy to exploit the Nebraska market to any extent, although it elsewhere appears in the record that to many Nebraska destinations, on the Burlington at least, the haul is shorter from Mason City than from the gas belt. To this may be added the testimony of the witness from a Michigan mill who explains that his mill would not attempt to ship into the Chicago market because, to use his own words, "our policy of sale would take into consideration the fact that if we should ship our product 230 miles into Chicago when there was a large producer adjacent to Chicago, the only effect of that would be to force that much cement out of the Chicago district into other districts, possibly ours, which would be a detriment both to our plant and the plants operating around Chicago, and the only ones to reap the benefit would be the railroads."

The scale which we shall adopt will be applied via the short-line workable route. Objections based upon the use of the shortest possible route as the proper basis for calculating distance will, therefore, disappear. The difference between the short-line workable and the actual route averages 7.3 per cent according to the exhibits of 16 carriers on September, 1915, traffic. See page 228, *supra*. The carriers' counsel originally estimated that their revenues would fall short by 10 per cent of what the Lorenz plan would theoretically

yield by reason of their having to meet the rate of the short line. It has already been observed that the Lorenz scale II for the average haul on all business outside of Illinois is exactly 10 per cent above the average rate actually earned by the carriers outside of Illinois for that distance. This does not mean that the application of the scale will raise revenues by 10 per cent, but that the scale must be so constructed in order to keep the carriers' earnings at their present level. An important reason for this is that the carriers will not, in all instances, be able to obtain the maximum prescribed by the scale due to competition, water carriage, and other causes.

#### BASIS OF FINAL ADJUSTMENT.

We are convinced upon the record that a strict distance adjustment is too rigid for universal application within this territory, and there seems to be a quite general concurrence in this view. On the other hand, the opposition to each grouping plan submitted, and the instances of discrimination against particular mills, convince us that no grouping plan proposed is just to all interests. The Iola Cement Mills Traffic Association has submitted a combination of the two which provides for naming rates to important key points and checking in rates to intermediate points upon a distance basis, with the key point rate as a maximum. While we do not concur in the measure of the rates proposed by this association, we shall adopt the principle of key point rates for application within the territory hereinafter described, in connection with the scales approved herein, with certain allowances for fourth section departures.

The two interests between which is the greatest conflict are the Kansas gas belt group of mills and the Universal Portland Cement Company. Each of these interests submitted group plans, and the key points selected by them were many of them common to each plan. We shall take all of the principal key points in each of their plans and add thereto Madison and Wausau, Wis., and Escanaba, Mich., and determine the reasonable maximum rates to these various key points from the principal points of production in western trunk line territory. We shall expect the carriers to check in the rates to the intermediate points upon the basis of Lorenz scales I and II. It developed at the oral argument upon the report herein as originally proposed that an intermediate application of the key point rates as maxima would often cause substantial reductions from the scale rates and make it impossible for the carriers to obtain such a rate for a haul intermediate to a key point via an indirect route as it would be entitled to from the application of the scales herein found reasonable. In order to make adequate provision for these situations permission will be granted to depart from the long-and-short-haul

rule of the fourth section at points intermediate to key points, provided that the scale rates herein prescribed are not exceeded at such intermediate points, and that such rates are not in excess of the lowest combination. While we have provided, *infra*, pages 238 and 239, that rates on shipments from one territory to another shall be made by the simple method of adding the rates under each scale for the entire haul and then dividing by two, it is to be understood that the more exact method described in the Commission's Exhibit No. 2 is to be used where, in order to avoid fourth section departures, it is necessary in order to check in rates consistently to various destinations near the boundary lines of the territories. The territory to which each scale is applicable is shown upon chart C opposite page 247, *infra*.

For greater definiteness the boundaries of scale I territory may be described as follows: From Milwaukee, Wis., northwesterly to Rugby Junction, Wis., via the Chicago, Milwaukee & St. Paul; thence southerly via the Soo line through Waukesha and Burlington, Wis., to the intersection of that railroad with the North Western; thence westerly via the North Western and the Chicago, Milwaukee & St. Paul, through Caledonia and Rockton, Ill., to Freeport, Ill.; thence westerly via the Illinois Central to Dubuque, Iowa; thence southerly through Dubuque along the western bank of the Mississippi River to the Ohio River; thence northeasterly following the Ohio River to the Wabash River; thence northerly following the Indiana-Illinois boundary line to Lake Michigan; and thence along the west shore of Lake Michigan to the point of beginning. We are convinced upon the record that within this territory a lower scale of rates should prevail than in the territory west and north thereof. Scale II is to be applied in the rest of western trunk line territory east of the Missouri River, as shown upon the sketch opposite page 247, *infra*. The boundaries of the territory within which scale II is to apply are: From St. Louis, Mo., following the line of the Missouri Pacific through Kansas City, Mo.; thence following the Missouri River through Omaha, Nebr., and Sioux City, Iowa; thence the line of the Chicago, Milwaukee & St. Paul Railway through Sioux Falls, S. Dak.; thence via the Great Northern through Willmar, Minn., to and including Duluth, Minn.; thence along the south shore of Lake Superior, through the straits connecting Lakes Superior, Huron, and Michigan, and thence along the west shore of Lake Michigan southerly as far as Milwaukee; thence following the line of demarcation of scale I territory on the west to the point of beginning. The same rate shall be applicable between the same points in either direction throughout all of the territory covered by this investigation. In making rates between territories of different rate levels, the rate for

the entire distance should be calculated under each scale and an average taken.

The rates from the Kansas gas belt to points east of the Missouri River within scale II territory shall be upon the level of scale II. While the record shows that the density of traffic in southeastern Kansas is fairly comparable with the density of traffic between the rivers, it is not for this reason primarily that we consider that scale II rates should be applicable upon cement traffic from those mills to those destinations. It will be recalled that the most important movement of cement from the Kansas gas belt mills is to Kansas City. The average of the short-line distances to Kansas City from those mills is 134 miles. The rate allowed under scale II for 134 miles is 7.7 cents. The fluctuations of the rate to Kansas City have been commented on at length in the record and are set forth in this report. We are convinced that the existing rate of 5 cents and the conditions which compel it afford no fair measure for the determination of the rate beyond. We sustained as reasonable a  $7\frac{1}{2}$ -cent rate for this movement in the *Ash Grove Case, supra*, which approximates the scale II level.

Due consideration has been accorded to the views presented and urged in behalf of the Michigan mills. The principal competitor of these mills appears to be the Universal Portland Cement Company, having mills at Buffington and Steelton, Minn. One complicating element in the situation is the abnormally low rate of 7.5 cents from Steelton to the Soo, which has been made by the Duluth, South Shore & Atlantic. The claim is that such a rate is compelled by reason of water competition, and has resulted in a maladjustment of rates which all parties acknowledge should be corrected. The correction which the Michigan mills desire is an adjustment based upon the determination of a reasonable rate at some point on Lake Superior, such as Marquette, Mich., halfway between Duluth and Alpena, at which last-named point the mill of the Huron Portland Cement Company is located, and the grading of rates in either direction from such point in blocks according to distance from Steelton and Alpena, respectively. The insistent contention of the Michigan mills has been, however, that for such portion of their haul as is within the southern peninsula of Michigan they are entitled to a lower rate basis because the southern peninsula of Michigan is in central freight association territory. While their claim is technically true, we can not allow it, as we have recently subdivided the lower peninsula of Michigan into three rate districts, and in this subdivision Newaygo and Alpena are located within the district taking the highest scale. *C. F. A. Class Scale Case*, 45 I. C. C., 254.

The further claim is made by the Michigan mills for joint through rates, where none now exist, into Wisconsin and the northern peninsula of Michigan through the west-side Lake Michigan ports. At present joint through rates apply only from Nawaygo to Wisconsin destinations on the Green Bay & Western, across the state to La Crosse. The carriers oppose this claim on the ground that the established basis for making rates into interior Wisconsin from cross-lake Michigan points is the combination of locals on these lake ports. We see no good reason why the Michigan mills are not entitled to reasonable joint through rates to these destinations. The carriers serving upper Wisconsin and the upper peninsula of Michigan join in rates from mills in the La Salle district and from Buffington to these destinations with other carriers such as the Illinois Central and the Elgin, Joliet & Eastern from the La Salle district and from Buffington, respectively. The rates from Steelton proposed by the Michigan complainants closely approximate the Lorenz scale II rates. We are of opinion and find that joint through rates should be established from Alpena and Nawaygo and Steelton to interstate destinations in Wisconsin north of scale I territory and into the upper peninsula of Michigan upon the basis of Lorenz scale II as a reasonable maximum.

The single-line movement from Nawaygo to Milwaukee is northerly to Ludington, thence to destination via the Pere Marquette car ferry. Such a route is altogether in scale II territory. The contention is made that a route 20 miles shorter exists involving a southerly movement from Nawaygo via the Pere Marquette to Grand Haven, Mich., thence via the Grand Trunk car ferry to Milwaukee. Via this route only 40 miles out of a total of 145 miles is stated to be in scale II territory. Nawaygo being local to the Pere Marquette, the latter route would compel that carrier to short haul itself. The short workable route must be considered in this instance the single-line route. Having determined the basis for rates from Nawaygo and Alpena to other Wisconsin points, we find that the reasonable basis to Milwaukee from the same producing points is the scale II basis.

We are further of opinion and find that the rates from producing points in southern Michigan and producing points in Indiana, to Chicago and other Illinois destinations, should be established upon the basis of Lorenz scale I as a maximum.

Following is a table of rates to the principal key points from producing mills in western trunk line territory which we find to be reasonable maximum rates to be observed for the future:

### Key point rates.

<sup>2</sup> This would be 107 miles, and the corresponding rate under Lorenz scale I 5.9 cents, if the short-line distance of 22 miles from Buffington to the Lake Shore passenger station in Chicago is added.

*Key point rates—Continued.*

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While all factors have been taken into account in the determination of these rates, we have considered distance of primary importance, but due consideration has been given to density of traffic and other factors.

There are a few instances in the table of key point rates where the rate found reasonable is in excess of the rate for the distance under the appropriate distance scales. In these cases the rates to the intermediate points will not be made upon the scale basis as maxima, but will be determined by scaling back the key point rate with relation to the distance between the intermediate point and the key point.

The rates here prescribed to the Missouri River cities have been made, to a great extent, with regard to relative distance in connection with the territorial divisions in which the scales apply.

We do not disturb the existing adjustment whereby the various mills within the Kansas gas belt, including Dewey, Okla., enjoy the same rate to interstate destinations.

## BASIS OF CALCULATING DISTANCE FROM BUFFINGTON.

An important issue in this case is the proper distance to apply from Buffington, where the Chicago plant of the Universal Portland Cement Company is located. Buffington is within the geographical boundaries of the Chicago switching district in the extreme southeastern section along the lake front. The plant of the Universal Portland Cement Company is served only by the Elgin, Joliet & Eastern, which is not a party to the existing Lowrey switching tariff. Traffic moving from the plant of the Universal Portland Cement Company in order to reach destinations west and northwest of Chicago takes the circuitous route of the Elgin, Joliet & Eastern, on

traffic to Milwaukee the distance being 61 miles longer than the distance measured through downtown Chicago. There are physical connections with other carriers whereby traffic might be routed through downtown Chicago, but the tariffs do not provide for moving traffic via those routes. The movement out of Buffington is covered by the tariffs of the Elgin, Joliet & Eastern and its connections. This question is of particular importance to the La Salle mills because Milwaukee is an important market for them and a highly competitive point. In *Cement Rates to Points in Illinois, supra*, which is reopened in this proceeding, Buffington was given a rate advantage of 1 cent over the La Salle mills on the movement to Milwaukee because it was found in that case that La Salle was 74 miles farther from Milwaukee than was Buffington, and that a higher rate from La Salle was therefore warranted by applying the distance test. The contention of the La Salle mills is that the route from Buffington to Milwaukee via the Elgin, Joliet & Eastern, which is the only route via which the traffic can move under the existing tariffs, is within 1 mile of the distance from La Salle to Milwaukee, and therefore the rates should be the same.

The La Salle mills ask us to reconsider our original finding in which we held that Buffington, being within the Chicago switching district, took the Chicago rate, and in support of their position call attention to the fact that although physically within the Chicago district, the Elgin, Joliet & Eastern does not interchange traffic with the line-haul carriers upon the basis of a switching service under the Lowrey tariff, but handles the Buffington traffic upon a basis of divisions as though Buffington were a point independent of the switching district. Attention is called to the common ownership of the Elgin, Joliet & Eastern and the Universal Portland Cement Company by the United States Steel Corporation, and it is suggested that "while divisions of rates ordinarily are no concern of the shipper, where the division of rates inures to the benefit of a shipper in any way, shape or form and affects the net freight receipts of the principal carriers involved, the question becomes of great importance." A general disclaimer, however, was made by the La Salle interests at the hearings of any imputation of illegality in the action of the Elgin, Joliet & Eastern, and unless the rates of the carrier are below a reasonable basis, we do not see that this phase of the question is significant.

It was shown during the course of the hearings that Chicago rates, both class and commodity, in practically all instances applied from Buffington to destinations in western trunk line territory; that heretofore without regard to the issues in this case, the carriers treated

Buffington as a billing station in Chicago; and that when rates from Buffington are upon a distance basis to eastbound or southbound destinations the Chicago distance, and not the shorter distance from Buffington, is the measure of the rate.

The record also shows that the first cement plant in Chicago was established in 1896 by the Illinois Steel Company; that the plant was moved to South Chicago in 1900, still being the property of the Illinois Steel Company. The United States Steel Corporation was not organized until 1901. In 1903 the growth of the cement industry brought about the organization of the Universal Portland Cement Company to operate the cement plant and its removal to a location farther away from downtown Chicago, at Buffington. The new location was, however, within the Chicago switching district. From the standpoint of ordinary business judgment in the relocation of a mill in an industrial center, its management would probably take every precaution which they reasonably could not to disturb their rate adjustment.

The Elgin, Joliet & Eastern serves other points than Buffington. There are many industries located upon its line. The same rate adjustment applies from one as from another. The record shows that the carrier selected advisedly the circuitous route around Chicago for the handling of its traffic so as to avoid the congested downtown switching district. If the carrier treated its Buffington business in any way differently from business it handles for other plants, where the question of community of ownership does not enter, we might regard the objections of the La Salle interests as having more significance. As it is, it appears to us that the practical advantage which would inure to the group of Illinois mills by having an equal rate to Milwaukee with the mill at Buffington is the moving reason for their insistence upon this adjustment. It must also be remembered that Milwaukee is simply the destination where the present situation probably has the most adverse influence upon the La Salle mills. We find, upon the facts of record, that the proper measure of distance from Buffington to destinations outside of the Chicago district is the Chicago distance.

#### RATE ADJUSTMENT WEST OF SCALE II TERRITORY.

The evidence shows that it is impossible to find one scale or level of rates that will apply to all of the territory involved in this proceeding west and northwest of the Missouri River. A witness for the Burlington recognized this and suggested two scales, one for the territory in Nebraska on and east of the Central City-Grand Island-

Hastings-Lester line, and the other for the territory west of that line including South Dakota. In constructing these scales the witness took the Lorenz scale III as a basis, making the terminal charge 3 cents in all cases and making the road-haul charge of the two scales for the western territory respectively 140 and 160 per cent of the road-haul charge of the Lorenz scale III. The scale presented for this western territory by the witness for the Iola group approximates very closely the Lorenz scale III.

Both the witness for the Burlington and the witness for the Iola group asserted that their suggested rates approximate the existing rates. That they arrived at such different results is explained by the fact that the gas belt witness used many hundreds of rates, whereas the Burlington witness selected certain rates which he considered important for representative rate comparisons. To approximate the present interstate rates on the Burlington requires scales as high as those suggested by the witness for that road.

Special consideration has been given to the exhaustive compilation of rates to the territory west of scale II territory from the principal cement-producing points which has been offered by the gas belt interests in support of their contention that their rates are too high into this territory. Taking representative destinations given in this exhibit, and considering the fact that the rates from the cement-producing points in lower rated territory than the gas belt as to a certain undivided portion of their rates to the western points reflect the lower level of the rates in the farther eastern territory of origin, we are unable to conclude that the general level of rates in the western territory is seriously out of alignment, although certain individual rates need adjustment. The existing rates from the gas belt to important destinations in Nebraska and South Dakota, taken from the gas belt exhibits, fairly approximate the rates proposed in the Burlington scales.

We find by comparison that after making due allowance for the portions of haul in lower rated territory, the rates from the mills of the gas belt's eastern competitors into the territory west of scale II likewise approximate the proposed Burlington scales. The same may be said of the proposed rates in Investigation and Suspension Docket No. 935, *Cement to Nebraska Stations*, consolidated herewith. The rates to points in Nebraska, South Dakota, and Montana, which we sustained in the *Ash Grove Case*, *supra*, also average approximately the same as the higher Burlington scale. We accept the suggestion of the Burlington witness that the territory west of the Missouri River should have two scales. However, after a study of the average earnings and selected rates given in exhibits of record, and giving due

weight to the factors of traffic density and population in that portion of the territory nearer to the Missouri River, we believe that a scale which is lower than the Burlington 140 per cent scale should be used. In lieu of this last-mentioned scale there should be substituted scale III as found upon page 247, *supra*. The territory within which this scale is to apply is bounded as follows: Following the western boundary of scale II territory from St. Louis, Mo., to Granite Falls, Minn.; thence northwesterly via the line of the Chicago, Milwaukee & St. Paul Railway through Ortonville and Graceville, Minn., to the northern boundary of South Dakota; thence west along said boundary line to its intersection with the Edgeley-Aberdeen branch of the Chicago, Milwaukee & St. Paul Railway; thence southerly along the line of said railway through Aberdeen, Redfield, Wolsey, Mitchell, and Tripp, S. Dak., to Yankton, S. Dak.; thence westerly along the Missouri River as far as it forms the boundary line between South Dakota and Nebraska; thence southerly through O'Neill, Spalding, Central City, Grand Island, Hastings, and Lester, Nebr.; thence southeast through Beloit, Kans., and Salina, Kans.; thence southerly through McPherson, Kans., and Hutchinson, Kans.; thence south following the Atchison, Topeka & Santa Fe Railway to the northern boundary line of Oklahoma; thence east along said boundary line to the western boundary line of Missouri, with a departure from the geographical boundary line at Dewey, Okla., so as to include that point within scale III territory; thence south along the western boundary line of Missouri to its intersection with the line of the St. Louis-San Francisco Railway; thence northeasterly via said railroad through Springfield, Mo., to its point of intersection with the Missouri Pacific Railway near St. Louis, Mo.; all as appears upon chart C which will be found opposite page 247 of this report.

Scale IV territory shall include that portion of Colorado lying east of a line drawn north and south through Trinidad, Canon City, Cripple Creek, and Denver; thence north to the Colorado-Wyoming state line; and also the balance of Kansas, Nebraska, and South Dakota lying west of the western boundary of scale III territory. Scale IV is the same as the Burlington 160 per cent scale, with certain modifications for distances less than 80 miles.

For reasons appearing in part on page 251, *infra*, we do not include North Dakota and Montana in the general territorial limits within which the scales herein found reasonable are to apply. But in Investigation and Suspension No. 1047, *Cement to Montana*, a separate proceeding which was heard immediately following the hearing of the cement investigation, a portion of Montana and Wyoming is included within scale IV territory.

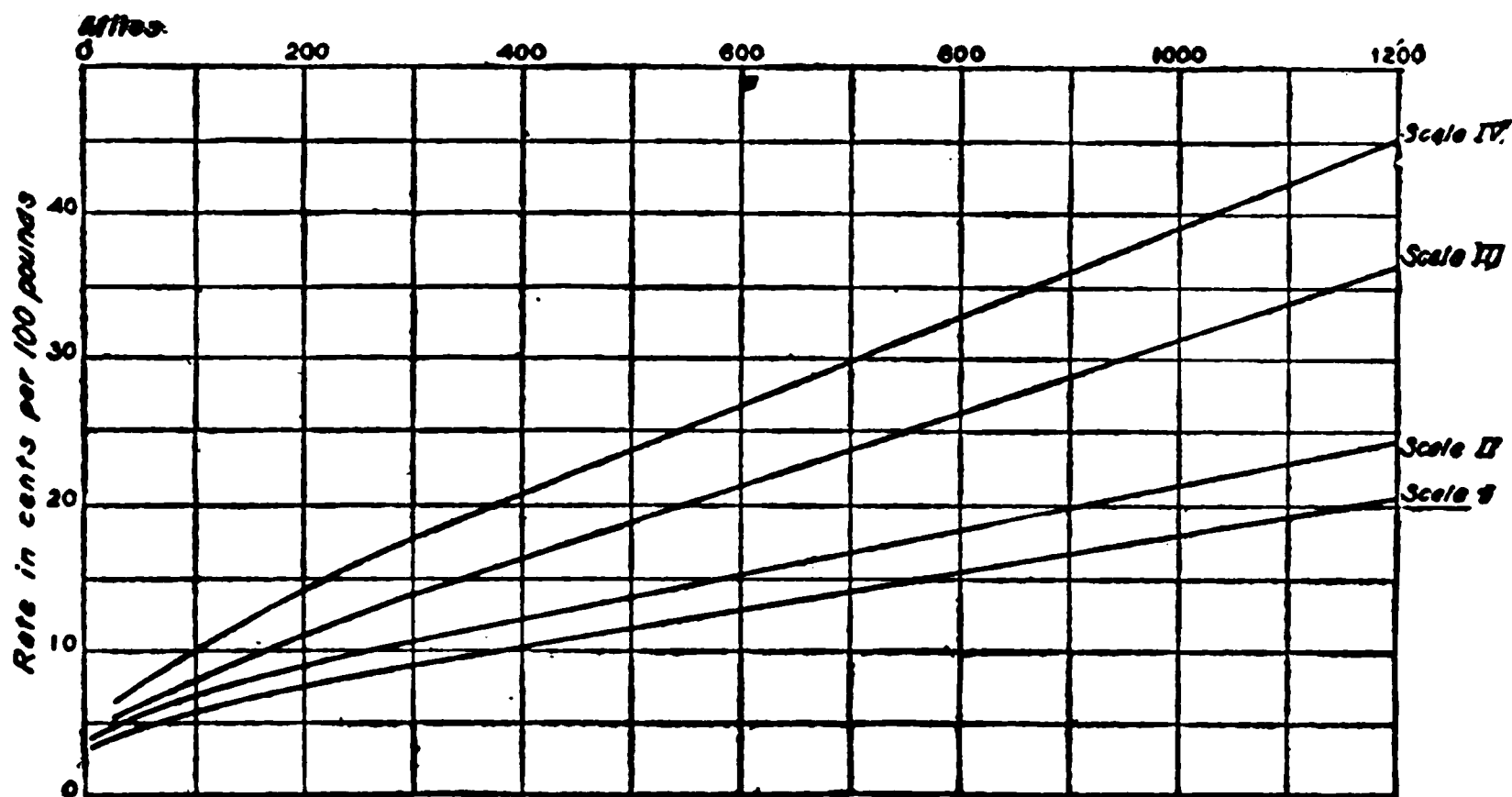
The four scales which we find reasonable herein, and which we prescribe as reasonable maxima to be used in connection with the key point rates for the territories described, are as follows:

1 Twenty-five miles and under.

The territory with respect to which the scales found reasonable herein shall apply is shown upon the subjoined chart C.

48 I. C. C.

CHART D.—Showing scales I, II, III, and IV as authorized herein.



The scales found reasonable herein are graphically represented in chart D.

No distinction in rate is made for hauls over more than one line. Such does not seem to have been the practice of carriers in this territory with reference to cement.

Where a producing point is located upon the boundary line between territories, the proper scale or scales to apply depends upon the direction of the movement. In such cases the producing point shall be considered to be in that territory within which the point of destination is located, except that, if the point of destination is not in either of the territories whose common boundary passes through the producing point, then the producing point shall be considered to be within the territory which is bounded by such common boundary line lying nearest to the point of destination; and except further, that from Hannibal and St. Louis to scale II destinations in Minnesota, Iowa, and Wisconsin where there is an intermediate movement through Illinois, the rate shall be the average of scales I and II. A similar rule, *mutatis mutandis*, will be applied to destinations located upon boundary lines. For the purposes of this report Hannibal and St. Louis are upon the boundary between scale territories I and II, Sugar Creek and Bonner Springs upon the boundary between scale territories II and III, and Steelton upon the boundary of scale territory II. Sugar Creek and Bonner Springs should take the same basis of rates for line hauls in all directions.

We are further of the opinion and find that a uniform minimum weight of 50,000 pounds is reasonable throughout the territory within

the scope of this investigation, and that if a lower minimum weight of 38,000 pounds is published the rates given herein should be increased by 13 per cent. Where the reasonable rate is not made with reference to the key point rates, as for instance to points in scale III and scale IV territories from points of origin, the rate shall be calculated on the basis of an average of the rates for the entire distance measured by the short-line workable route under the scales in effect in the different territories traversed by such route.

Carriers should establish through routes and joint rates via all reasonably available direct lines. If, in any case, they fail to establish such route and rate, any complaining party may call our attention to that particular instance by petition filed in appropriate proceedings.

#### ADJUSTMENT FROM GILMORE CITY, IOWA.

A new plant for the manufacture of cement has begun or is about to begin operation at Gilmore City, Iowa, a point approximately 23 miles northwest of Fort Dodge, Iowa, on the Minneapolis & St. Louis Railroad. Temporary rates have been granted the new mill by the carrier, the adjustment being presented among the exhibits in this investigation. No representative of this producer other than the witness for the carrier has appeared at any of the hearings, and the adjustment which is proposed by the carrier is limited to rates on its own lines in Minnesota and South Dakota. It was proposed that the rate from Gilmore City to St. Paul be halfway between the rates to the same destination from Mason City and Des Moines; that is to say, 1 cent over Mason City and 1 cent under Des Moines. The carrier also asks us to establish from Gilmore City to all points within the territory covered by this case through routes and joint rates via other carriers.

While no further evidence was submitted by this carrier with respect to the adjustment from Gilmore City, the proximity of this point to Mason City and Des Moines, and the record in this case, enable us to prescribe a reasonable adjustment from Gilmore City made with relationship to the two Iowa producing points above mentioned. With respect to the establishment of a proper rate to St. Paul, the carrier's witness stated that the differential of 1 cent over Mason City might be slightly increased upon the basis of distance. We are of opinion and find that the proper differential of Gilmore City over Mason City upon a movement to St. Paul should be 1½ cents.

With respect to the differentials to the other key points, we are of opinion and find the following to be reasonable:

Gilmore City to—

Milwaukee, Wis., 1 cent over Mason City.  
Madison, Wis., 1 cent over Mason City.  
Chicago, Ill., 1 cent over Mason City.  
Wausau, Wis., 1 cent over Mason City.  
Escanaba, Mich., 1 cent over Mason City.  
Omaha, Nebr.,  $\frac{1}{2}$  cent under Mason City.  
Kansas City, Mo., 1 cent over Des Moines.  
St. Louis, Mo., 1 cent over Des Moines.  
Sioux City, Iowa,<sup>1</sup> 1 cent under Des Moines.  
Sioux Falls, S. Dak., 2 cents under Des Moines.

Rates from Gilmore City to all other points within the territory herein involved shall be calculated in the manner provided herein for determining the rates from the other points of origin in scale II territory.

#### COMBINATIONS ON THE GATEWAYS.

The evidence submitted by different interests in the Kansas gas belt, by the La Salle mills and by the carriers with reference to the adjustment west of the Missouri River cities and St. Paul is in clear conflict. The carriers insist that the present method of making rates by combinations upon the gateways be continued, and the shippers declare with equal emphasis that this results in an unreasonably high level of rates. We shall endeavor to distinguish between the situations at St. Paul and at the Missouri River. Considered as a whole, the carriers insist that the general rate adjustment at the Missouri River at the present time is dominated by the principle of the combination of locals. If, however, the reason disappears for adhering to this principle in the case of cement the application of the principle will likewise disappear. In this case we are determining the rate level for no commodity other than cement, the movement of which is confined to comparatively few points of origin. In South Dakota and Nebraska certainly the movement of cement from originating points east of the Missouri River is dominated by such systems as the Burlington, the North Western, and the Milwaukee. The rate-breaking points at the Missouri River have no significance for them, as their lines extend eastward to Chicago and northwestward into the far west. The principal movements of cement from origin to destination are generally one-line hauls, and the single lines undoubtedly make the rates on cement for the territory. Three-quarters of the entire movement into South Dakota is over the Milwaukee and the North Western.

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<sup>1</sup> See footnote 3, p. 241, *supra*.

No good reason appears why under such circumstances the adjustment of cement rates should continue to be made on the combination of locals. But the situation is quite different at St. Paul. While all these three carriers reach that point, the St. Paul gateway is used primarily in connection with northern carriers which terminate there. The next question is whether this principle results in a reasonable system of rates. The Northern Pacific has shown an entirely different set of conditions prevailing in the territory served by it from what prevails south of the northern lines. The rates appear to be high in North Dakota in comparison with the average in the states south, but the witness maintains that they are now in proper relationship to the rates from the mills farther west along the lines of the northern carriers. There are, of course, instances where the rule of combinations is departed from by the northern carriers, but the witness insists that this is done only at junction points to meet the competitive rates of single-line carriers. Upon a full consideration of all the facts of record, we are of opinion and find that the present basis of making rates upon the combination of locals on St. Paul is not unreasonable upon cement traffic to points beyond St. Paul which are not included within the rate scale territories herein prescribed. Within these territories the key point rates and rate scales as prescribed herein should apply, but to destinations beyond, the combination on St. Paul may apply. This basis may be used by the carriers in their alignment of rates included under investigation and suspension dockets and fourth section applications which have been heard in connection with the cement investigation where those rates depend for their justification upon the reasonableness of the combination on St. Paul.

#### CONGESTED TERMINALS.

A situation which has been earnestly urged upon our attention concerns the proper rates to apply upon movements of cement between points within large terminal districts. It has been insisted that the switching rates in these congested traffic districts should reflect the high cost of the terminal facilities and we are asked to undertake an investigation before determining a reasonable switching rate in such cities as Chicago, Kansas City, and St. Louis. It is also contended that in the construction of a rate for country districts the relatively smaller expense of the terminal facilities at such points should be reflected in the rates. With respect to the latter contention we think it sufficient to say that the amount allowed for terminal expense is presented in constructing theoretical distance scales as the factor distinct from road haul. No method has yet been determined for satisfactorily separating this factor from the rate as a whole nor has any means yet been de-

vised of showing to what extent conditions prevailing at different originating points, varying perhaps radically in traffic density, should affect terminal charges. In dealing with this problem all commodities, not cement alone, would have to be considered. In an investigation the object of which is to determine the reasonableness of cement rates, we will not conduct a general inquiry into the reasonableness of switching rates at terminals. For these reasons we do not consider that a separate finding with respect to switching rates on cement can be made upon the facts of record. We therefore do not pass upon the question of the reasonableness of the switching charges at Chicago, Kansas City, St. Louis, or Duluth. Perhaps the most insistent contention in connection with this subject has come from the Atlas mill at Hannibal which urges that switching rates from its competitor at Buffington upon Chicago deliveries are proportionally low as compared with the proposed rate from Hannibal to Chicago of 8.8 cents for a distance of 282 miles. But the facts scarcely support such a contention. The record shows the weighted average charges from Buffington upon deliveries in the Chicago district to be between 3 cents and 3½ cents. Upon an 80,000-pound carload the switching charges therefor aggregate from \$24 to \$28 per car. Without attempting to prejudge the question, we do not consider that the facts developed on this record show that such a charge is unreasonably low as an average for a movement of cement within the Chicago switching district. The spread in rates between Hannibal's distance of 282 miles and the Buffington distance is from 5.3 cents to 5.8 cents. The weighted average length of the switching movement to Chicago deliveries from Buffington does not appear. The distance from Buffington to downtown Chicago, as it appears in the Commission's exhibit of distances hereinbefore referred to, was measured by the direct line from Buffington to the Lake Shore passenger station in Chicago and is 22 miles. The difference in the rate under Lorenz scale I for 282 miles, 8.8 cents, and 22 miles, 3.7 cents, is 5.1 cents. Nor is it probable that a scale of rates based purely on cost plus a profit would show a less spread between Hannibal and Buffington rates than is shown by the rates for 22 miles and 282 miles under Lorenz scale I. For instance, the spread between the rates for these distances under the Muller scale, which is found on pages 219 and 220, *supra*, is 5.4 cents. Under a scale based upon a straight line progression yielding 7 per cent on the investment which is referred to in the Commission's memorandum Exhibit No. 2 herein, as well as in the *Western Rate Advance Case*, *supra*, the difference in rate for these distances is 6.53 cents. In the cases of St. Louis and Kansas City our attention has been called to the existence of switching rates of 1 cent from Prospect Hill and Continental into the former

point and 1½ cents from Sugar Creek and Bonner Springs to the latter point, and these rates are contrasted with existing rates from outside competing mills to these points, in an endeavor to show that the switching rates are unreasonably low. Such a presentation of the situation fails to take into account the fact that the switching rates referred to are applicable only to local deliveries on the line of the particular carrier upon whose rails the plant is situated which furnishes the cement, that if delivery is made to points not on the rails of the originating carrier various additional charges are paid, and that when a shipment is made to these same consuming points from competitive mills outside of the switching district no switching charges accrue at destination, but they are absorbed in the line-haul charge.

#### STATE VERSUS INTERSTATE RATES.

When the order instituting this investigation was served it was not contemplated to put in issue the question of relationship between interstate and state rates. This subject has, however, been referred to in the case during the course of the hearing. It is manifest that if a general solution is to be reached applicable to the entire territory, approximately the same general level should prevail throughout large areas without regard to state boundary lines. The state of Michigan in recognition of the necessity for uniformity has stated that it would await this Commission's report in the present case before fixing its state rate adjustment.

In Illinois the present level of cement rates is materially below the central freight association scale and Lorenz scale I. The situation is developed in detail by witnesses for the central freight association lines and particularly by the Illinois Central. Depressed rates seem to have developed from the unwillingness of the carriers to place certain Illinois destinations upon the central freight association level when that scale was agreed upon for central freight association territory, and this in turn was due to the unwillingness of the carriers serving the Chicago market to increase their Illinois rates. These rates, therefore, though subnormal, are rates which were voluntarily established by the carriers. The establishment of Lorenz scale I in Illinois would place Illinois destinations upon a substantial rate parity with destinations in other states in central freight association territory.

#### DISPOSITION OF INDIVIDUAL CASES.

Since the adjustment approved herein rests primarily upon a new basis, the development of which we have set forth in the preceding pages, it will be necessary for the carriers to check in new sets of rates from the different producing points to the various desti-

nations within the territory involved in conformity with our findings in the general investigation. With respect to various cases, therefore, which have been consolidated or heard in connection with the investigation, with certain exceptions elsewhere specified herein, dismissal or denial orders will be entered covering the fourth section applications and formal docket cases, where the relief prayed for is inconsistent with the report and findings herein, and orders directing the cancellation of proposed increased rates will be entered in the investigation and suspension dockets. The record is not sufficiently particularized to support general findings covering the movement from Oklahoma points to the south and west, and special disposition has been made of the issues presented in the particular cases involving a movement from or to certain points in this territory and special orders will be entered therein. The excepted cases include Investigation and Suspension Docket No. 950, *Cement from Ada, Okla.*; Investigation and Suspension Docket No. 960, *Cement to Sallisaw*; I. C. C. Docket No. 8490, *Oklahoma Portland Cement Company v. M., K. & T. Ry. Co. et al.*; and a portion of Fourth Section Application No. 2380, filed by the St. Louis & San Francisco Railroad Company January 9, 1911. These cases will be separately treated.

1. *Investigation and Suspension Docket No. 960, Cement to Sallisaw.*—By the tariffs under suspension in this docket the rate upon cement in carloads from gas belt producing points in Kansas to Sallisaw, Okla., via the Missouri Pacific-Iron Mountain and connections, is sought to be increased to 15 cents per 100 pounds. The present rate is 12 cents. Sallisaw is a junction point of the Iron Mountain with the Kansas City Southern about 30 miles west of Fort Smith, Ark.

In justification of the proposed increase it is explained that the existing rate to Sallisaw via the Kansas City Southern from gas belt points is 15 cents and by the proposed increase via the Missouri Pacific-Iron Mountain it is sought to equalize the rates via all carriers to this destination. It is urged that a lowering of the Kansas City Southern rate to 12 cents is impracticable on account of the effect upon existing higher intermediate rates. It is also contended that the proposed rate of 15 cents is reasonable *per se*, and our attention is called to existing rates from Texas and Missouri producing points to the same destination. Distances, however, are not given in connection with these rates and satisfactory comparisons, therefore, can not be made.

It was also pointed out by the same respondent that the earnings per ton-mile from gas belt points to Sallisaw were lower than the ton-mile earnings at the points on either side of Sallisaw, but this condition frequently prevails where the point under comparison is

on the fringe of a group, as is the case with Sallisaw. Another exhibit offered by the respondent gives the distances via all the routes from Kansas gas belt points to Fort Smith, Ark., and the average distance derived therefrom is figured at 239.5 miles, which, at the proposed rate of 15 cents, yields 12.5 mills per ton-mile. In this connection our attention is directed to the report in *Board of Improvement, Water Works District No. 1, Fort Smith, Ark. v. The Atchison, Topeka & Santa Fe Railway Company et al.*, 26 I. C. C. 539, decided in 1913, wherein we upheld a rate on cement of 15 cents from Kansas gas belt points to Fort Smith, Ark., which for the average distance of 214 miles, as stated in that case, afforded a ton-mile earning of 14 mills as against a ton-mile earning of 12.5 mills for 239.5 miles under the proposed rate to Sallisaw. That these comparisons do not adopt the same basis of figuring distance is sufficiently evident when it is recalled that Sallisaw is 30 miles nearer the Kansas gas belt district than is Fort Smith. A distance comparison based upon an average distance of 184 miles, Sallisaw from gas belt points, at the present rate of 12 cents, would yield ton-mile earnings of 13 mills.

The exhibits of the protestants developed the fact that the average distance via the short-line workable route to Sallisaw from the Kansas cement-producing points is 193 miles, which, under the existing rate of 12 cents, yields 12.4 mills per ton-mile. This compares favorably with the respondent's figures of ton-mile earnings, 12.5 mills, under the proposed rate of 15 cents on the basis of an average distance of 239.5 miles via all routes. We have prescribed the short-line workable distance as the proper system to adopt in the application of the scales found reasonable in the general investigation, and we see no reason why it should not also serve as the proper measure in this particular case.

Rates on cement from the Kansas producing points to Oklahoma destinations were prescribed by this Commission in 1912 in the *Ash Grove Case, supra*. In that case we found certain rates to Oklahoma destinations from the gas belt manifestly out of line. By our order in that case the rate to Sallisaw was reduced via the Missouri Pacific from 15 cents to 12 cents, where it has since remained until the present attempt of respondents to restore it. Upon the record we find that the respondents have not established the reasonableness of the proposed increased rate. Since the proposed rate went into effect by statutory limitation September 5 last, an order will be entered directing the respondent to restore the rate which was in effect immediately prior to said date.

2. *Investigation and Suspension Docket No. 950, Cement from Ada, Okla.*—By the schedules under suspension in this docket it is proposed to increase the commodity rates on cement, in carloads, from

Ada, Okla., to certain points in eastern Kansas and western Missouri located on the St. Louis-San Francisco Railway. The existing rates are generally 13 cents per 100 pounds and the proposed rate is 15 cents. According to respondent's exhibit the rates, both present and proposed, are blanketed from Baxter, Kans., 228 miles from Ada, to Kansas City, Mo., 387 miles from Ada. The existing rate from Ada to Kansas City via the Missouri, Kansas & Texas is 15 cents, and the Frisco desires to equalize its rates with this figure. In support of its claim to the increased rates, the carrier submits an exhibit making a comparison of present and proposed rates in cents per 100 pounds and ton-mile earnings and distances from Ada with similar figures from Kansas City, Mo., and Fredonia, Kans., to representative destinations in southwestern Missouri and southeastern Kansas. The showing is far from conclusive of the propriety of the proposed increase, as the following table will show, which is representative of the situation.

To—	From Ada.					From Kansas City, Mo.			From Fredonia, Kana.		
	Dis- tance.	Pres- ent rate.	Earn- ings (mills per ton- mile).	Pro- posed rate.	Earn- ings (mills per ton- mile).	Dis- tance.	Pres- ent rate.	Earn- ings (mills per ton- mile).	Dis- tance.	Pres- ent rate.	Earn- ings (mills per ton- mile).
Baxter, Kans.....	228	13	11.46	15	13.16	159	9	11.32	176	10	11.26

Instead of ton-mile earnings tending to decrease with distance, the contrary appears often to be the case, and an increase of 2 cents in the rate would further emphasize the discrepancy.

By reference to the respondent's exhibit it appears that Springfield, Mo., 310 miles from Ada, represents a fair average distance for the group of destination points whose extremes are Baxter, 228 miles, and Kansas City, 387 miles. The rate provided under scale III, as approved herein, for a distance of 310 miles is 14.1 cents. We are of opinion and find that the carrier has failed to establish the reasonableness of the proposed increased rates from Ada to points in southwestern Missouri and southeastern Kansas. An order will be entered directing the cancellation of the tariffs covering the proposed increases.

3. *I. C. C. Docket No. 8490, Oklahoma Portland Cement Co. v. M., K. & T. Ry Co. et al.*—The complaint as originally filed in this docket attacks the rates on cement from Ada, Okla., to points in Minnesota, Iowa, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Kansas, Colorado, and Missouri as unjust and unreasonable in violation of section 1 of the act to regulate commerce, and as

unduly prejudicial in violation of section 8, as compared with rates contemporaneously maintained by the respondents from the mills in the Kansas gas belt. It is claimed that the discrimination is unjust and unlawful because the rates from Ada exceed the rates from the above-mentioned points to numerous destinations in Montana, Colorado, Wyoming, and western Nebraska, although distances are claimed to be no greater from Ada and the transportation conditions equally favorable. The evidence adduced at the hearing has not fully covered all of these issues, and on the other hand has presented still others. The complaining witness appeared to confine his evidence in this docket to the following principal points: (1) A general complaint against the Oklahoma state rates which are upon a higher level than the rates of near-by states and against the existing interstate rates into Oklahoma. It is averred that when complainant makes a state shipment he is prejudiced by reason of having to ship upon state rates higher than either state or interstate rates for comparable distances from competitive mills; (2) a desire is expressed to have through rates established from Ada into western trunk line territory, southern Iowa and northern Missouri being specifically mentioned; and (3) attack is made on the existing rates to Texas points. The first of these grounds of complaint has not been fully developed. The third is outside of the scope of the complaint and of this investigation.

The complainant further contended that the same rate level should prevail in Oklahoma east of the ninety-seventh meridian that prevails in Kansas east of the same meridian and furnishes statistics of traffic density in the eastern section of these two states which are comparable with each other, but the statistics are limited to main-line traffic and do not include branch lines. Complainant prefers an adjustment upon a basis of distance, but makes no suggestion as to the volume of the rate. No comparisons of rates or distances are offered in support of the pleading that rates from Ada are out of line with the rates from the gas belt to the western states enumerated. With respect to the grouping of points of origin the complainant is willing to accept this principle, provided that the rate be made on the basis of the average distance from the group. If such a basis be adopted the complainant believes that a proper differential from the Ada mill to destinations in all the territory where the complainant is seeking rate adjustments, except Kansas and Colorado and that part of Missouri lying south of the Missouri River, should not exceed 5 cents over Sugar Creek and Bonner Springs; that the rate from Ada to destinations in Missouri south of the Missouri River should not exceed the rate from the Kansas gas belt by more than 2 cents; and that rates from Ada to Kansas destinations should be the same for like distances as the rates from the Kansas gas belt mills to Oklahoma des-

tinations. On the question of differentials the complaining witness admitted that on the basis of a distance scale he could not sell at a profit in southern Iowa and northern Missouri against the competition of the near-by mills.

A large portion of claimant's contentions must be denied for want of proper evidence to support them. No sufficient basis exists upon this record for arriving at a distance adjustment applicable to Oklahoma destinations, or from Ada to Kansas points. The existing basis of interstate rates in that territory is the grouping basis, and this basis we shall not disturb on this record. On shipments from Ada moving beyond Kansas City and the Missouri River crossings a differential will be prescribed; but we consider that such differential should bear relationship to the adjustment from the Kansas gas belt mills instead of to Sugar Creek and Bonner Springs as prayed in the petition. Assigning to Ada the scale III basis of rates, the distance of Ada from Kansas City being 387 miles as against an average of 138 miles from the Kansas gas belt group, the rates to Kansas City from these points of origin are 16.1 cents and 9.3 cents, respectively, a difference of 6.8 cents. On the basis of scale II the differential would be 4.5 cents. We are of opinion and find that the reasonable differential from Ada to destinations in western trunk line territory should not exceed by more than 5 cents per 100 pounds the rates to the same destinations from the Kansas gas belt.

*Portion of Fourth Section Application No. 2380.*—Under a portion of Fourth Section Application No. 2380, filed by the St. Louis & San Francisco January 9, 1911, permission is sought to maintain rates on cement in carloads from cement-producing points in the Kansas gas belt, Bonner Springs, Sugar Creek, Prospect Hill, and Continental to destinations on the St. Louis & San Francisco Railroad in eastern and southeastern Oklahoma which are higher than the rates to farther distant destinations in southwestern Arkansas, to which the Oklahoma points are intermediate. The carrier explains the situation as follows: The short lines from St. Louis, via the Iron Mountain, and from Kansas City, via the Kansas City Southern, to Texarkana, Ark., are 494 miles and 487 miles, respectively, the distances being practically equal. It is the policy of the Kansas City carriers to equalize their rates to Texarkana with the St. Louis rates. On cement a rate of 18 cents prevails to this destination from St. Louis and Kansas City. Hope, Ark., a short distance north of Texarkana on the Iron Mountain, and Ashdown, a few miles north of Texarkana via the Kansas City Southern, are junction points with the Frisco. These two points, on account of their proximity to Texarkana, take the same

rate of 18 cents from St. Louis and Kansas City. Arkinda, Ark., another point on the Frisco a short distance west of Ashdown, but not a junction point, appears to carry the low 18-cent rate. The points in Oklahoma on the Frisco, where it is sought to carry higher rates, are all intermediate to Arkinda, Ashdown, and Hope. At some of these intermediate Oklahoma points the proposed rate is as high as 25 cents per 100 pounds. In justification of these departures from the fourth section, the carrier urges that the rate from St. Louis and Kansas City to Texarkana of 18 cents is unduly low, being depressed by carrier competition through New Orleans and Shreveport and competition from cement-producing points in the neighborhood of Dallas, Tex. The witness refers to the rate of 20 cents, which we found reasonable in the *Ash Grove Case, supra*, from the Kansas gas belt district to Hugo, Okla., on the line of the Frisco in southeastern Oklahoma, intermediate via the Frisco route from the Kansas gas belt to Arkinda. He also refers to the rate of 26 cents from the gas belt points to Paris, Tex., which is 25 miles south of Hugo on the Frisco, which rate has been in effect for a number of years. No further justification of the reasonableness of the intermediate rates is offered.

The carriers' petition contemplates the maintenance of a rate at East Port, in the extreme southeastern part of Oklahoma, of 25 cents, while at Arkinda, Ark., approximately 1½ miles beyond, the rate is 18 cents. Petitioners' exhibit also shows points north of Hugo where the rate of 25 cents is proposed to be continued. We are of opinion and find that the rates intermediate to Arkinda, Ashdown, and Hope should be upon a level not to exceed the rates found reasonable in southeastern Oklahoma in the *Ash Grove Case, supra*, and fourth section relief will be granted only upon such basis.

Appropriate orders will be entered.

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APPENDIX.

TABLE 1.—*Chicago, Burlington & Quincy Railroad. Effect of rates in Lorenz scales and Universal group plan on business originated by each carrier.*

[Based on September, 1915, business.]

Item.	From all points in western trunk line territory served by this carrier, excluding Colorado.			From Hannibal, Mo., only.		
	State.	Interstate.	Total.	State.	Interstate.	Total.
Number of cars.....	740	1,885	2,625	113	1,088	1,198
Car-miles.....	82,232	618,195	695,427	14,062	352,922	366,984
Tons.....	25,011	61,447	86,458	3,318	35,903	39,221
Ton-miles.....	3,056,986	19,814,898	22,871,884	419,820	11,717,404	12,137,224
Revenue received:						
Actual.....	\$27,962	\$118,297	\$146,259	\$5,214	\$64,557	\$69,771
Lorenz short-line workable route.....	\$30,783	\$117,015	\$147,798	\$4,630	\$66,237	\$70,867
Lorenz shortest possible route.....	\$30,252	\$113,636	\$143,888	\$4,583	\$64,114	\$68,697
Universal group.....	\$31,701	\$122,591	\$154,292	\$4,935	\$68,646	\$73,581

TABLE 2.—Chicago, Milwaukee & St. Paul Railway Company. Recapitulation showing destination, miles hauled, weight, present and proposed rates and revenues on carload shipments of cement with amount of increase involved for the month of September, 1915.

INTERSTATE SHIPMENTS.

From—	Aver- age miles actually hauled per car.	Aver- age short- line work- able mile- age.	Num- ber of cars.	Total weight (pounds).	Charges under present rates.	Charges under proposed rates.			Increase over present charges (heavy figures denote decrease).					
						Universal Portland Cement Co.'s group rate.	Lorenz distance plan short-line workable distance.	Iola group and dis- tance plan short-line workable distance. <sup>1</sup>	Universal Port- land Cement Co.'s group rate.		Lorenz distance plan.		Iola group and distance plan. <sup>1</sup>	
									Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.
Buffington, Ind.....	193	191	428	29,518,331	\$24,326.19	\$25,010.76	\$21,294.29	\$21,521.05	\$687.16	2.83	\$3,081.90	12.46	\$2,805.14	11.53
Oglesby, Ill.....	268	250	393	25,143,926	21,415.78	23,417.42	21,364.08	21,120.73	1,001.64	4.68	51.70	.24	295.06	1.38
Mason City, Iowa.....	181	179	394	25,049,356	19,544.37	20,312.09	20,471.50	18,118.56	767.72	3.93	927.13	4.74	1,425.81	7.30
Des Moines, Iowa.....	426	275	16	1,160,900	1,035.12	1,058.30	1,196.13	1,028.68	23.18	2.24	161.01	15.55	6.46	.62
Duluth, Minn. (June, 1916).....	704	704	2	104,000	356.50	.....	220.72	144.72	.....	.....	185.78	88.08	211.78	59.41
Steelton, Minn. (June, 1916).....	594	594	7	389,500	1,129.77	.....	749.18	495.92	.....	.....	390.59	33.69	633.86	56.10
Total.....	219	210	1,240	81,366,013	67,807.73	\$68,798.56	65,295.90	62,429.64	\$2,477.10	\$3.74	2,511.73	3.70	5,378.09	7.93

<sup>1</sup> The Kansas gas belt interests subsequently offered a somewhat higher scale for application west of their so-called "standard rate territory." This would increase the esti-  
mated totals in this column upon such shipments as moved to destinations west of that territory.  
<sup>2</sup> Excludes shipments from Duluth and Steelton.

INTRASTATE SHIPMENTS.

Oglesby, Ill.....	147	115	295	21,195,394	\$9,739.55	\$13,172.16	\$12,707.36	\$10,373.34	\$3,432.61	35.24	\$2,967.81	30.47	\$633.79	6.51
Mason City, Iowa.....	122	123	395	24,354,165	15,787.17	.....	17,993.67	15,081.34	.....	.....	1,816.50	11.51	705.88	4.47
Des Moines, Iowa.....	105	105	141	8,695,775	5,136.08	.....	5,965.69	5,114.78	.....	.....	821.61	16.15	21.30	.41
Total.....	128	117	831	54,245,334	30,662.80	\$13,172.16	36,276.72	30,569.46	\$3,432.61	\$35.2	5,613.92	18.31	96.34	.39

<sup>1</sup> Excluding shipments from Mason City and Des Moines, Iowa.

TABLE 3.—*The Minneapolis & St. Louis Railroad. Statement of revenue for September, 1915, on interstate shipments of cement from Mason City, Iowa. Revenue earned compared with revenue based on Lorenz scale and U. P. C. group scale for short workable routes and short routes all lines used as one.*

Number of pounds handled.....	13, 086, 900
Revenue earned (all lines to destination).....	\$10, 917. 07
Revenue under Lorenz scale (short workable routes).....	\$11, 125. 93
Increase.....	\$208. 86
Revenue under Lorenz scale (short-line routes all lines as one).....	\$10, 817. 95
Decrease.....	\$99. 12
Revenue to points in U. P. C. group territory.....	\$7, 325. 24
Revenue to same territory based on U. P. C. group scale.....	\$7, 463. 50
Increase.....	\$138. 26
Average distance hauled to points in scale 2.....miles..	218. 4
Average present rate to same points.....cents..	9. 41
Rate for 218 miles Lorenz scale 2.....do..	9. 4
Average short workable distance to points in scale 2 territory.....miles..	188. 9
Rates for 189 miles Lorenz scale 2.....cents..	8. 8
Average short-line distance (all lines as one) to points in scale 2 terri- tory.....miles..	171. 5
Rate for 171 miles Lorenz scale 2.....cents..	8. 6

TABLE 4.—*The Minneapolis & St. Louis Railroad. Statement of cement, car-loads, from Mason City, Iowa, to points in Iowa, month of September, 1915.*

To 74 stations on the M. & St. L. R. R.		To 32 stations on connecting lines.	
Number of cars.....	214	Number of cars.....	79
Number of pounds.....	12, 754, 620	Number of pounds.....	5, 201, 160
Actual revenue.....	\$7, 525. 53	Actual revenue.....	\$4, 334. 41
Average haul (miles).....	113. 3	Average haul (miles).....	175. 6
Average rate (cents per cwt.).....	6. 007	Average rate (cents per cwt.).....	8. 275
Revenue based on Lorenz scale.....	\$8, 780. 99	Revenue based on Lorenz scale.....	\$4, 101. 34
Increase at 72 stations (total).....	\$1, 275. 41	Increase at 1 station (total).....	\$7. 41
Decrease at 2 stations (total).....	\$19. 95	Decrease at 28 stations (total).....	\$240. 48
Average rate at Lorenz scale (cents per cwt.).....	7. 058	Average rate at Lorenz scale (cents per cwt.).....	7. 937
Revenue based on Lorenz scale short-line continuous mileage.....	\$8, 280. 94	Revenue based on Lorenz scale short-line continuous mileage.....	\$4, 079. 57
Increase at 65 stations (total).....	\$878. 62	Increase at 1 station (total).....	\$6. 27
Decrease at 7 stations (total).....	\$123. 21	Decrease at 30 stations (total).....	\$261. 11
Average haul (miles).....	93. 2	Average haul (miles).....	143. 6
Average rate (cents per cwt.).....	6. 578	Average rate (cents per cwt.).....	7. 825

TABLE 5.—Union Pacific. Statement showing weight and charges on cement forwarded from Bonner Springs, Kans., during month of September, 1915, also result of Lorenz, Universal Portland Cement, Iola, Atlas, and Lehigh distance scales. Heavy figures denote decreases.

From Bonner Springs to—	Weight, in pounds.	Charged charges.	Lorenz distance charges.	Universal distance charges.	Iola distance charges.	Atlas distance charges.	Lehigh distance charges.	Differences.				
								Charged vs. Lorenz.	Charged vs. Universal.	Charged vs. Iola. <sup>1</sup>	Charged vs. Atlas.	Charged vs. Lehigh.
Missouri (except Kansas City, Mo.).....	3,121,320	\$1,500.73	\$1,895.61	\$2,437.00	\$1,584.57	\$2,093.55	\$2,192.72	\$394.83	\$606.27	\$83.84	\$392.82	\$693.99
Nebraska.....	2,494,700	2,080.69	2,050.10	2,610.34	1,792.49	3,840.82	2,740.60	30.59	529.65	281.20	1,700.13	659.91
Kansas.....	2,584,100	1,637.99	1,735.83	2,133.33	1,537.96	4,002.24	2,230.78	97.84	495.34	100.01	2,364.25	592.79
Texas.....	190,000	513.00	336.30	333.80	277.40	418.00	333.80	176.70	159.20	225.60	96.00	159.20
New Mexico.....	173,280	606.48	379.72	497.72	318.50	480.24	497.72	228.76	108.76	287.93	196.24	108.76
Wyoming.....	152,000	532.00	357.20	490.96	302.43	413.44	490.96	174.80	41.04	239.52	118.56	41.04
Total.....	8,715,460	6,870.89	6,754.76	8,553.15	5,820.42	11,248.29	8,533.53	116.13	1,632.26	1,050.47	4,377.40	1,662.69

<sup>1</sup> The Kansas gas belt interests subsequently offered a somewhat higher scale for application west of their so-called "standard rate territory." This would increase the estimated totals in this column upon such shipments as moved to destinations west of that territory.

TABLE 6.—Cement traffic originating on Chicago &amp; North Western Railway, September, 1915. Grand summary.



Average car haul, 224.9 miles.	Average return per car-mile, 26 cents.
Average car haul, shortest workable route, 214.5 miles.	Average return per car-mile, Lorens scale, actual distance, 26.14 cents.
Average car haul, shortest route, 195.8 miles.	Average return per car-mile, Universal group rates, 27.08 cents.
Average car revenue, \$58.45.	Average return per car-mile, Lorens scale, shortest workable route, 24.74 cents.
Average car revenue, Lorens scale, actual distance, \$58.55; Bentley group, \$60.80.	Average return per car-mile, Lorens scale, shortest route, 23.76 cents.
Average car revenue, Lorens scale, shortest workable route, \$55.03.	Average return per car-mile, Lorens scale, shortest route, observing fourth section, 23.59 cents.
Average car revenue, Lorens scale, shortest route, \$53.43; observing fourth section, \$51.21.	Average return per car-mile, Iowa scale, 23 cents.
Average car revenue, Iowa scale, \$51.82.	

51.0.0

The Kansas gas belt interests subsequently offered a somewhat higher scale for application west of their so-called "standard rate territory." This would increase the estimated totals in this column upon such shipments as moved to destinations west of that territory.

TABLE 7.—Northern Pacific. Statement showing weight and charges on cement forwarded from Duluth and Steelton, Minn., via Northern Pacific Railway, during the month of June, 1916, also result of the application to same traffic of Lorens scale, Universal Portland Cement Co., Lehigh Portland Cement Co., and Atlas Portland Cement Co. distance scales (see note 1).

From Duluth, Minn.; Steelton, Minn., to—	Weight in pounds.	Revenue received.	Lorens scale.			Universal scale.			Lehigh scale.			Atlas scale.		
			Revenue under Lorens distance scale.	Lorens vs. received increase.	Lorens vs. received decrease.	Revenue under Universal distance scale.	Universal vs. received increase.	Universal vs. received decrease.	Revenue under Lehigh distance scale.	Lehigh vs. received increase.	Lehigh vs. received decrease.	Revenue under Atlas distance scale.	Atlas vs. received increase.	Atlas vs. received decrease.
Wisconsin.....	568,100	\$255.76	\$334.49	\$78.73	.....	\$405.72	\$149.96	.....	\$419.89	\$164.13	.....	\$360.02	\$104.26	.....
Minnesota.....	4,288,600	8,574.90	4,347.64	772.74	.....	4,705.96	1,181.06	.....	4,986.80	1,411.90	.....	8,712.97	138.07	.....
North Dakota.....	2,800,539	6,217.39	4,401.40	.....	\$1,815.99	4,569.89	.....	\$1,657.50	4,857.47	.....	\$1,359.92	5,539.05	.....	\$678.34
Total.....	7,717,239	10,048.05	9,083.53	851.47	1,815.99	9,671.57	1,281.02	1,657.50	10,264.16	1,576.08	1,359.92	9,612.04	242.33	678.34
Net increase or decrease.....	.....	.....	.....	.....	904.52	.....	.....	376.48	.....	216.11	.....	.....	.....	496.01

NOTE 1.—These figures have been prepared for the month of June, 1916, because of the fact that the cement plant at Steelton, Minn., was not in operation during September, 1916.

INVESTIGATION AND SUSPENSION DOCKET No. 1055.

OKLAHOMA-TEXAS COMMODITIES.

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*Submitted December 4, 1917. Decided January 22, 1918.*

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Proposed increased rates on crushed limestone, in carloads, from Ada, Okla., and on potatoes, in carloads, from certain points in Oklahoma, to certain points in Texas found not justified.

*N. H. Lassiter, W. F. Dickinson, and Wallace T. Hughes* for Chicago, Rock Island & Pacific Railway Company and Chicago, Rock, Island & Gulf Railway Company.

*F. R. Dalzell* for various southwestern lines.

*W. D. Humphrey, H. L. Bennett, J. M. Gayle, R. C. Koons, and Paul A. Walker* for Corporation Commission of Oklahoma.

*F. P. Dixon and W. V. Hardie* for Oklahoma Traffic Association.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

By schedules, filed to take effect April 2, 1917, respondents proposed certain increases in the rates on scrap paper, in carloads, from Oklahoma City, Okla., to Dallas and Oak Cliff, Tex; on crushed limestone, in carloads, from Ada, Okla., to numerous destinations in Texas; and on potatoes, in carloads, from points in the so-called Shawnee district in Oklahoma to destinations in Texas on the Chicago, Rock Island & Gulf Railway, designated as class group 14, extending from the Texas-Oklahoma state line to and including Amarillo, Tex., the points of origin and destination being grouped for rate-making purposes. Upon protest of the Oklahoma Traffic Association, Oklahoma Portland Cement Company, and the Corporation Commission of Oklahoma, the schedules were suspended until January 31, 1918. At the hearing the protests against the proposed rates on scrap paper were withdrawn. Respondents stated that it was their purpose to withdraw the suspended rates on crushed limestone and to continue in effect the present rates on that commodity; also that in order to avoid certain fourth section violations a rate of 31 cents per 100 pounds would be established on potatoes, in carloads, in lieu of the 34-cent rate proposed in the suspended tariff. The burden of justifying the 31-cent rate was assumed by the Chicago, Rock Island & Pacific and the Chicago, Rock Island & Gulf railways, hereinafter called respondents. Rates are stated in cents per 100 pounds.

The present rates on potatoes, in carloads, from and to the points mentioned is 25.5 cents. Practically the sole reason advanced by respondents in justification of the proposed rates was that they would remove certain discriminations alleged to exist as between the rates from Oklahoma points to these destinations and the rates established from Texas points to the same destinations, following *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83. It was shown that prior to that decision the average rate on potatoes from Texas producing points to these destinations was 22.1 cents, while from points in Oklahoma to the same destinations a rate of 25.5 cents applied; that after the establishment of rates following that case the average rate from the Texas points was 33.81 cents, so that at present the rates from Oklahoma points average 8.31 cents less than the rates from the Texas points, and if the proposed rate of 31 cents is allowed to become effective the rates from the Oklahoma points would average 2.81 cents under the rates from the Texas points. From Sulphur Springs, Eagle Lake, and Wharton, representative Texas producing points, to Shamrock, Groom, and Amarillo, Tex., representative destinations in class group 14, for distances ranging from 416 to 708 miles, the average per car-mile revenue, based on the new Texas rates and a carload minimum of 24,000 pounds, is 13.92 cents, while from Shawnee, representative of the Oklahoma points of origin to the same destinations, for an average distance of 267 miles, the per car-mile revenue under the present rate, based on the same minimum weight, is 23.42 cents and under the proposed rate of 31 cents would be 28.47 cents. From September 1, 1916, to August 31, 1917, no carload shipments of potatoes moved from Oklahoma to these destinations. It is asserted that this was not due to the rate situation but to the failure of the Oklahoma potato crop in that year.

Protestants urge that the present rate has been in effect for over eight years; that the potatoes raised in Oklahoma must be marketed quickly because of their perishable character; that the principal markets are in the states to the north of Oklahoma, but that the Oklahoma potatoes are there displaced early in the season by potatoes of a better quality coming from Missouri and Kansas and the balance of the crop must be marketed, if at all, in Texas; and that no special equipment is required as the shipments move almost exclusively in stock cars at a season when the carriers are not extensively engaged in hauling live stock. Exhibits were introduced by protestants showing rates on potatoes for similar distances in other sections of the country and rates in Texas under the so-called Shreveport scale with which the present rates compare favorably. The average ton-mile revenue of respondent Chicago, Rock Island & Pacific on its Oklahoma interstate traffic in fruits and vegetables

for the year ended June 30, 1916, was 12.4 mills for an average haul of 154 miles. For an average haul of 261 miles, stated to be the average distance from Shawnee to all the destinations, respondents' ton-mile revenue under the present rate is 19.5 mills and under the proposed rate would be 23.75 mills.

We find that respondents have not justified the proposed increased rates on crushed limestone or potatoes. An order will be entered vacating the orders of suspension in so far as they relate to rates on scrap paper and requiring the cancellation of the other schedules under suspension herein.

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No. 8549.

J. B. WILLIAMS COMPANY

v.

HARTFORD & NEW YORK TRANSPORTATION COMPANY  
ET AL.

*Submitted May 26, 1916. Decided January 7, 1918.*

The southern classification provides ratings on soap in containers other than glass and earthenware, any quantity, dependent upon the value of the soap declared in writing by the shipper; *Held*, That the rates on soap from Glastonbury and East Hartford, Conn., to points in southern classification territory, based on such classification ratings, which were in effect when the Cummins amendment of August 9, 1916, was approved, which rates the carriers have not been authorized or required to maintain by order of the Commission, are unlawful.

*Charles Conradis, Arthur B. Hayes, and W. F. Price* for complainant.

*R. Walton Moore* for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of soap at Glastonbury, Conn. By complaint, filed December 23, 1915, it alleges that the southern classification any-quantity ratings and defendants' rates applicable thereunder on soap from Glastonbury and East Hartford, Conn., to points in southern classification territory are unreasonable, unjustly discriminatory, and unduly prejudicial. The establishment of reasonable and nondiscriminatory rates for the future is asked.

The southern classification, in effect at the time of the hearing, provided the following any-quantity ratings on soap, which, with minor changes, are now in effect:

Soap:

	Class.
In glass or earthenware packed in barrels or boxes.....	1
When the actual value exceeds 12 cents per lb., or when no value is stated by shipper in writing in shipping order:	
In bulk in barrels or boxes, or in inner containers other than glass or earthenware, or in wrappers, in barrels or boxes.....	3
When the actual value does not exceed 12 cents per lb., this actual maximum value to be stated by shipper in writing in shipping order:	
In bulk in barrels or boxes, or in inner containers other than glass or earthenware, or in wrappers, in barrels or boxes.....	6

Complainant assails only the ratings on soap in containers other than glass or earthenware. In the first issue of the southern classification published in 1900, and for many years prior thereto, all soap moving in southern classification territory was divided into two classes, the second-class rating applying on castile and fancy soap, any quantity, and the sixth-class rating on common soap, any quantity. A similar classification was maintained until February 16, 1903, when the distinction between the two classes of soap by name was eliminated and a valuation basis prescribed under which soap, limited in value to 5 cents per pound, and so expressed in the bill of lading, was rated sixth class, any quantity, while an any-quantity rating of third class was provided on soap n. o. s. Subsequently the language of this item was changed so as to provide for the application of the sixth-class rating on soap agreed to be of a value of 5 cents per pound or less, and reference was made to a rule in the classification providing that the shipper must execute a special release under which the liability of the carrier was limited to the extent of the agreed valuation named therein. These ratings as thus modified were continued until June 3, 1915. Then a sixth-class any-quantity rating was provided on all soap in containers other than glass or earthenware, and remained in effect until October 1, 1915, when the ratings assailed became effective. As these ratings resulted in increased rates subsequent to January 1, 1910, the burden is on the defendants to show that they are just and reasonable.

There are practically no manufacturers of commercial soap south of the Ohio River and that territory draws its supply principally from producing points in the east and middle west, of which the following are representative: Glastonbury; New York, N. Y.; Cincinnati, Ohio; Chicago, Ill.; Omaha, Nebr.; and Kansas City, Mo. Complainant's competitors manufacture ordinary laundry soap valued at about 5 cents per pound or less and most of them also manufacture a white floating soap valued at 12 cents per pound or less and other soaps valued in excess of 12 cents per pound. The white floating soap is sold largely as a toilet soap, but certain brands are advertised and held out to the public as being suitable for both toilet and laundry purposes. Complainant manufactures soap ranging in value from 3½ cents to about 32 cents per pound, most of which is toilet soap valued at from 7 cents to 32 cents per pound. It also manufactures shaving soap valued at from 14 cents to 60 cents per pound, the greater portion of the shaving soap shipped to southern classification territory being mug soap valued at from 14 cents to 23 cents per pound. Complainant's business has been conducted with a view to establishing a demand for a varied line of soap and toilet preparations and, for commercial reasons, most of its sales are made direct

to retailers. Its competitors, on the other hand, as a rule sell to jobbers and most of them have created a large demand for particular kinds or brands of toilet or combined toilet and laundry soap valued at 12 cents per pound or less. Complainant contends that the ratings assailed unlawfully discriminate against it in favor of its competitors for the reason that the latter, owing to the method in which they conduct their business, can ship soap valued at 12 cents per pound or less at the sixth-class rate, while complainant, because of the small volume of its separate shipments, can not as a practical matter separate such soap from that valued in excess of 12 cents per pound and is therefore compelled to pay the third-class rates.

Complainant further contends that the ratings in question are discriminatory in that certain kinds of toilet soap are given a lower rating than other toilet soap with which they compete. It is testified that about 50 per cent of the soap shipped into southern classification territory has an actual value of 8 cents per pound or less, which value embraces all of the common or primary laundry soap; about 30 per cent is valued at between 8 cents and 12 cents per pound; and the remaining 20 per cent in excess of 12 cents per pound. Complainant is not concerned with the measure of the ratings or the rates applicable thereunder, but states that it will be satisfied with any adjustment which will permit its toilet soaps valued in excess of 12 cents per pound to enjoy the same rating as competitive soap valued at 12 cents per pound or less.

For defendants it was testified that the difference in the ratings originally provided in the classification was predicated primarily upon the difference in the general character and value of ordinary laundry soap as distinguished from toilet soap; and that the valuation basis subsequently provided was established as a substitute for the distinction by name between these two classes of soap, the value being fixed at a point which would divide the then ordinary laundry soap from toilet soap. This distinction is said to have been observed quite generally when the valuation basis of 5 cents per pound was established, particularly in view of the fact that prior to that time laundry soap by name only had been moving at the lower rating. Subsequently, in view of the provisions as to agreed value, many shippers, including complainant, began to ship all of their soap at the lower rating under an agreed valuation of 5 cents per pound, while other shippers are said to have continued to make their shipments on the basis of actual value. The Cummins amendment, approved March 4, 1915, made the carriers liable for any loss, damage, or injury caused by them to property transported by them in interstate commerce, notwithstanding any limitation to the contrary or any representation or agreement as to value, except under certain circumstances enumerated in a proviso. On behalf of defendants it was testi-

fied that the sixth-class rating which was in effect between June 8 and September 30, 1915, inclusive, was published tentatively in view of the uncertainty as to the proper construction to be placed upon the Cummins amendment and to meet the objections of various shippers who had protested against certain schedules filed by the carriers proposing to provide a fourth-class less-than-carload rating on soap other than shaving soap and in containers other than glass or earthenware and a sixth-class carload rating on all soap. The western and official classifications make no distinction between toilet soap and either ordinary laundry or combined laundry and toilet soap, but carload and less-than-carload ratings are provided.

Soap moves generally in southern classification territory in less than carloads and there is apparently no demand for a carload rating. For defendants it is urged that the present ratings were established as the result of a conference of the Southern Classification Committee at which the principal soap manufacturers, including complainant, were represented and that they are apparently satisfactory to a majority of the shippers; that the 12-cent valuation basis was established with a view to including under the lower rating all soap in common use and because of the representations of shippers who manufacture soap designed for both laundry and toilet purposes that to give such soap a higher rating than primary laundry soap would be unjust.

Since the submission of this case that part of section 20 of the act to regulate commerce, known as the Cummins amendment, has been further amended by an act of Congress approved August 9, 1916. In view of the existing situation a new question, which was not considered at the hearing, presents itself, namely, are the rates assailed, which are based on value, unlawful.

The original Cummins amendment laid upon the carriers liability in full for any loss, damage, or injury caused by them to the property transported, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any receipt, bill of lading, or in any contract, rule, regulation, or tariff; and any such limitation, without respect to the manner or form in which sought to be made, was declared to be unlawful and void. It was further provided that in instances where goods were hidden from view by wrapping or other means, the carrier might require the shipper to state specifically in writing the value of the goods and should not be liable beyond the amount so specifically stated. By the amendment of August 9, 1916, the proviso last referred to was amended so as to provide that the provisions respecting liability for full actual loss, damage, or injury and declaring any limitation thereof to be unlawful and void shall not apply to

baggage or to property, except ordinary live stock, on which the carrier has been or shall thereafter be authorized or required by order of the Commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and shall not, so far as relates to values, be held to be a violation of section 10 of the act. The rates assailed were in effect on August 9, 1916. No authority has been granted by us for their publication in terms of value.

The plain and unmistakable purpose of the Cummins amendment was to make unlawful and void, except as otherwise provided therein, all attempted limitations of liability for loss, damage, or injury to property transported. We stated in *The Cummins Amendment*, 33 I. C. C., 682, decided May 7, 1915:

The law does not specifically say that attempts so to limit the carrier's liability shall not be resorted to, but it declares them to be invalid and unlawful wherever found and in whatever guise they may appear. Obviously, therefore, neither the bills of lading or other contracts for carriage, or classifications or rate schedules of the carriers should contain any provisions which are so declared to be unlawful and void.

In *Express Rates, Practices, Accounts, and Revenues*, 43 I. C. C., 510, decided April 2, 1917, express companies sought an order authorizing the maintenance of express rates dependent upon the value of the property as declared in writing by the shipper, or as agreed upon in writing. Protests were filed against the establishment of rates for the transportation of ordinary live stock dependent upon the value of the stock transported and it was urged by protestants that the maintenance of different rates on animals of the same class, based on value, was by the amendment prohibited. For the express companies it was asserted that the rates proposed on ordinary live stock were not dependent upon agreed or released value, but that they were based on actual value and that the express companies had a right to maintain such rates. In declining to grant this part of the application, we held that, while it did not appear to be the purpose of the express companies to attempt a limitation of liability, a continuance of the then existing method of stating rates for ordinary live stock would require on the part of the shipper a representation of the value, which is declared to be unlawful, and said:

The act, as amended, fixes upon the carrier liability for the full actual loss, damage, or injury caused by it to ordinary live stock and invalidates any limitation or attempted limitation of that liability, wherever or in whatever form it is found. Ordinary live stock is excepted from the property as to which we

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are empowered to authorize or require the establishment of rates dependent upon declared or released value. If rates on ordinary live stock dependent upon declared value could lawfully be maintained without authorization by the Commission, there might and probably would be instances in which conflict would arise as between the liability imposed by the act upon the carrier and the prohibitions of section 10 of the act affecting shippers. We can not, in view of the provisions of the law, authorize or sanction such rates upon ordinary live stock; neither can they lawfully be maintained upon any other character of traffic except under authorization duly granted by the Commission. Under such authority both shipper and carrier are fully protected and the full spirit of the law is observed.

We think that the principles announced in that case, which were followed in *Live Stock Classification*, 47 I. C. C., 335, are controlling here. Under the act, as now amended, we can not fairly or effectively differentiate between released rates and rates based on actual value, for the reason that carriers can have no knowledge of the actual value except as declared by the shipper. In view of the fact that the rates assailed require a declaration of value by the shipper, and were published without our authority, we are of the opinion that they are unlawful. The record does not afford a satisfactory basis for the fixing of proper rates for the future. The case will be held open pending the publication of rates revised in accordance with our conclusions herein. If this is not done within a reasonable time, the matter may be called to our attention and the case will be assigned for further hearing with a view to making an adequate record upon which to base an order for the future.

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No. 7424.<sup>1</sup>  
**ABEL & ROBERTS**  
*v.*  
**MISSOURI PACIFIC RAILWAY COMPANY.**

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*Submitted November 6, 1916. Decided December 28, 1917.*

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Former findings that certain shipments of brick in carloads from Buffalo and Coffeyville, Kans., to Lincoln, Nebr., were overcharged, reversed on rehearing. Complaints dismissed.

*H. G. Denison* for complainants.

*Henry G. Herbel* and *Fred. G. Wright* for defendant.

REPORT OF THE COMMISSION ON REHEARING.

BY THE COMMISSION:

This case was decided originally April 28, 1916, 39 I. C. C., 211. The complaints, as amended, alleged that the rate of 9 cents per 100 pounds charged by defendant for the transportation of certain carloads of paving brick shipped from Buffalo and Coffeyville, Kans., to Lincoln, Nebr., between April 1, 1912, and November 11, 1913, was illegal to the extent that it exceeded 8 cents. Reparation was asked. The Standard Vitrified Brick Company, of Coffeyville, by intervening petition, alleged that it was entitled to any reparation which might be awarded upon the claim of the Ford Paving Company. Rates are stated in cents per 100 pounds.

Prior to August 28, 1913, a rate of 8 cents applied on brick, except bath, fire, or enameled brick, including fire clay, hollow building tile, vitrified clay, conduits, partition tile, and brick blocks, in straight or mixed carloads; a rate of 9 cents on vitrified brick. On the date mentioned, the application of the 8-cent rate was limited to common building brick, other kinds of brick taking a 9-cent rate. Effective December 16, 1914, the 9-cent rate was made applicable on all brick, except bath and enameled. We found in our original report that the brick were not vitrified, and that the rate charged on the shipments which moved prior to August 28, 1913, was illegal to the extent that it exceeded 8 cents. We made no finding as to who was entitled to the refund of the overcharges, but stated that

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<sup>1</sup> This report also embraces No. 7424 (Sub-No. 1), Hydraulic-Press Brick Company *v.* Missouri Pacific Railway Company; and No. 7424 (Sub-No. 2), Ford Paving Company *v.* Same.

defendant would be expected promptly to refund the same, with interest. At defendant's request, the case was reopened on July 6, 1916, for a further hearing.

All the shipments upon which reparation is asked were billed as paving brick and apparently were so used, except four shipments made by the Hydraulic-Press Brick Company, which were used for building purposes. Complainants' contention that the brick shipped were not vitrified is based upon the technical definition of the word vitrified, viz, converted wholly or externally into glass or a glassy substance. At the former hearing a witness for complainants tested a brick of the kind in question with ink to show that it would absorb some moisture. The amount of moisture that the brick would absorb was not shown, but complainants' witnesses testified that if the brick had been vitrified, as above defined, it would have been impervious to moisture. The brick in these shipments, while not impervious to moisture, were burnt to a high degree of hardness and were of higher grade than common brick. They were valued at from \$12 to \$15 per thousand, while the value of common brick ranged from \$8.50 to \$10 per thousand.

Prior to 1907 defendant maintained the same rates on all brick, except fire, bath, and enameled, from the so-called Kansas gas belt, in which territory Buffalo and Coffeyville are located, to Lincoln, the rate originally being 10 cents, but subsequently reduced to 8 cents. In January, 1907, a rate of 8.75 cents was established on brick, other than common building brick, the rate on the latter remaining at 8 cents. Defendant's witness testified that brick of the kind here considered were originally used for paving purposes exclusively and were termed by the manufacturers vitrified brick; that later they were used to some extent in constructing buildings; and that in order to differentiate them from common building brick they were designated in the tariffs as vitrified brick, a rate of 10.5 cents being published on them in January, 1907, from and to the points concerned and a rate of 8 cents on brick other than vitrified, bath, fire, or enameled. On June 1, 1908, following *Lincoln Commercial Club v. C., R. I. & P. Ry. Co.*, 13 I. C. C., 319, the rate on vitrified brick to Lincoln was made 9 cents, no change being made in the 8-cent rate on common building brick. These rates were in effect when the shipments moved.

A witness for one of the complainants testified that all the brick handled by his company, paving and building, were termed vitrified.

Upon reconsideration of all the facts of record, we are of opinion and find that the former finding that the brick in question were not vitrified is not warranted. There being no contention that the rate assailed was unreasonable, the complaints will be dismissed. An order will be entered accordingly.

INVESTIGATION AND SUSPENSION DOCKET No. 1041.  
LIVE STOCK FROM NASHVILLE, TENN.

Submitted November 2, 1917. Decided January 28, 1918.

1. Proposed increased proportional rates on live stock, in carloads, from Nashville, Tenn., to the Ohio River crossings and to St. Louis, Mo., and East St. Louis, Ill., for beyond, found not justified.
2. Proposed cancellation of rates on hogs, in double-deck cars, from Nashville to the Ohio River crossings and to St. Louis, Mo., and East St. Louis, Ill., found not justified. Suspended schedules ordered canceled without prejudice to the publication of rates which are substantially in accord with those suggested herein.

*R. Walton Moore, Edward H. Hart, and Merrell P. Callaway* for respondent.

*R. D. Rynder* for Swift & Company.

*H. K. Crafts* for Armour & Company.

REPORT OF THE COMMISSION.

DIVISION 2, COMMISSIONERS CLARK, DANIELS AND WOOLLEY.

BY DIVISION 2:

By schedules filed to take effect March 13, 1917, respondent the Nashville, Chattanooga & St. Louis Railroad proposed to increase certain proportional rates on live stock, in carloads, and to cancel its rates on hogs, in double-deck cars, from Nashville, Tenn., to the Ohio River crossings, and to St. Louis, Mo., and East St. Louis, Ill. Upon protest by Armour & Company, Swift & Company, and the National Live Stock Exchange the proposed schedules were suspended until February 11, 1918. Rates are stated in amounts per car.

The present and the proposed rates from Nashville to representative destinations are shown below, together with the percentage of increase, if any:

To—	Hogs.		Cattle, horses, and mules.	Sheep.	
	Single deck.	Double deck.		Single deck.	Double deck.
Cincinnati, Ohio:					
Present.....	\$43.00	\$58.00	\$53.00	\$43.00	\$53.00
Proposed.....	43.00	(1)	53.00	43.00	<sup>2</sup> 60.20
Increase.....per cent..					14

<sup>1</sup> No rates proposed.

<sup>2</sup> Southern classification basis, 140 per cent of single-deck rates.

To—	Hogs.		Cattle, horses, and mules.	Sheep.	
	Single Deck.	Double Deck.		Single Deck.	Double Deck.
<b>Louisville, Ky.:</b>					
Present.....	\$34.00	\$44.00	\$31.00	\$30.00	\$35.00
Proposed.....	35.00	( <sup>1</sup> )	35.00	35.00	<sup>2</sup> 49.00
Increase.....per cent..	3	.....	12	17	40
<b>Evansville, Ind.:</b>					
Present.....	24.80	34.80	35.80	24.80	34.80
Proposed.....	35.00	( <sup>1</sup> )	35.00	35.00	<sup>2</sup> 49.00
Increase.....per cent..	41	.....	.....	41	40
<b>Paducah, Ky.:</b>					
Present.....	20.00	30.00	31.00	20.00	30.00
Proposed.....	35.00	( <sup>1</sup> )	35.00	35.00	<sup>2</sup> 49.00
Increase.....per cent..	75	.....	12	75	63
<b>Calro, Ill.:</b>					
Present.....	24.80	34.80	35.80	24.80	34.80
Proposed.....	35.00	( <sup>1</sup> )	35.00	35.00	<sup>2</sup> 49.00
Increase.....per cent..	41	.....	.....	41	40
<b>St. Louis, Mo.:</b>					
Present.....	40.00	58.00	50.00	40.00	54.00
Proposed.....	60.00	( <sup>1</sup> )	60.00	60.00	75.00
Increase.....per cent..	50	.....	20	50	38

<sup>1</sup> No rates proposed.<sup>2</sup> Southern classification basis, 140 per cent of single-deck rates.

Respecting the circumstances which led to the publication of increased rates, respondent shows that in 1913 certain shippers at Franklin, Ky., complained that the rates on live stock from Franklin to Louisville exceeded those from Gallatin, Tenn., which latter rates were made by combination on Nashville. To satisfy that complaint the rates from Nashville to Louisville were increased on November 26, 1913. As the rates to the other Ohio River crossings were not correspondingly increased, an alleged undue prejudice against Louisville resulted. On January 10, 1917, respondent increased its local rates and the Tennessee Central and the Louisville & Nashville increased their local and proportional rates from Nashville to the destinations here in question to the same basis as the proposed increased proportional rates. The proposed rates, therefore, are identical with respondent's local rates and with the local and proportional rates of the other Nashville lines. The tariffs of the Tennessee Central and the Louisville & Nashville were not protested because the fact of their publication was unknown to protestants until after they had become effective.

Respondent compares the proposed rates with the local rates on live stock from Nashville to destinations in the south for substantially similar distances, with rates from country shipping points in the south to Atlanta, Ga., the Ohio River crossings and certain other points, and also with the minimum carload earnings from Nashville to Ohio and Mississippi river crossings on various commodities classed as dead freight. In view of the dissimilar circumstances and conditions, however, these comparisons fall short of proving that the proposed increased proportional rates from Nashville are just and reasonable.

In justification of the withdrawal of rates on hogs in double-deck cars it is stated for respondent that the southern roads generally refuse to accept such shipments because of the added transportation risk, it being asserted that the upper deck impairs ventilation and that considerable loss results from suffocation of hogs in the upper deck. It is contended that as respondent's rates are stated in amounts per car instead of in cents per 100 pounds as in central freight association territory and in the west, shippers overload the cars to reduce the amount of freight per unit of 100 pounds.

These contentions are denied by protestants, who show that it is the practice of shippers to points in central freight association territory not to exceed the minimum weights prescribed in the *Eastern Live-Stock Case*, 36 I. C. C., 675, 17,000 pounds for single-deck cars and 22,000 pounds for double-deck cars. They assert that single-deck cars are rarely loaded to the minimum for the reason that hogs arrive in better condition when loaded slightly below the minimum. It appears that of 5,840 single-deck cars of hogs received at the Union Stock Yards, Chicago, Ill., in July, 1916, 83 per cent weighed less than the minimum. With respect to the contention that the use of double-deck cars tends to increase losses due to overcrowding and suffocation, protestant Swift & Company shows that reports from its feeding stations indicate that of the total number of dead hogs removed from double-deck cars 80 per cent are taken from the lower decks. The loss and damage claims against respondent on all live stock from October, 1910, to December, 1916, amounted to 3.7 per cent of its gross live-stock revenues and represented 8.9 per cent of the total loss and damage claims on all commodities. Its live-stock traffic during that period included a large movement of horses and mules from the west to the south and equaled 1.95 per cent of its total tonnage.

Another reason offered by respondent for the cancellation of rates on hogs in double-deck cars is that the southern roads own practically no double-deck cars. It is urged that the movement is seasonal and that they should not be required to supply this special equipment, which is unsuitable for the transportation of other commodities. Of the total shipments of hogs from Nashville between March 28, 1916, and March 28, 1917, to points to which both double-deck and single-deck rates applied, 64.39 per cent moved in single-deck cars and 35.61 per cent in double-deck cars. Protestants contend that the use of double-deck cars tends to reduce the empty car mileage by about one-third, as two double-deck cars will ordinarily carry a load equal to that of three single-deck cars, and urged that the proposed cancellation of rates is inconsistent inasmuch as it is shown of record that respondent publishes rates on hogs in double-deck cars from

various points other than Nashville to the Ohio River crossings and to St. Louis and East St. Louis, and also that such rates apply from Nashville to the Virginia Cities and to eastern trunk-line and New England territories. Respondent retained rates on sheep in double-deck cars because it has been its experience that sheep are less susceptible to injury than are hogs. Witnesses in behalf of Nashville live-stock interests testified that the withdrawal of rates on hogs in double-deck cars would substantially injure the Nashville market, as many sales are conditioned upon shipment in that type of car.

Protestants compare the present and the proposed rates with the rates prescribed in *Investigation of Alleged Unreasonable Rates on Meats*, 22 I. C. C., 160, referred to as the Oklahoma scale, and those prescribed in the *Eastern Live-Stock Case*, *supra*, known as the C. F. A. scale. It is shown, for instance, that the proposed rate on hogs in single-deck cars from Nashville to Evansville, Ind., is \$35, while for the same distance the earnings would be \$30.18 under the Oklahoma scale and \$26.35 under the C. F. A. scale. Under these scales rates are published in cents per 100 pounds and the earnings indicated are those for a minimum carload. Evidence was offered by protestants to show that, generally speaking, the traffic density and revenues per mile of road of the Nashville, Chattanooga & St. Louis and the Louisville & Nashville exceed those of the principal lines in the southwest where the Oklahoma scale applies.

We find that respondent has not justified the proposed cancellation of rates on hogs in double-deck cars or the proposed increased proportional rates. It is apparent, however, that some of the present rates are less than reasonable and that the rates as a whole should be readjusted on a more equitable and consistent basis. The record shows that it is the general policy of the Nashville lines to maintain equal rates from Nashville to each of the Ohio River crossings Louisville to Cairo, inclusive, but the present rates are not uniform, those on hogs in single-deck cars, for example, ranging from \$20 to Paducah to \$34 to Louisville. The present rates on cattle and on sheep in single-deck cars and on hogs and sheep in double-deck cars present similar inconsistencies. The distances from Nashville to Cincinnati and St. Louis are approximately the same, and there are no facts of record which justify substantial differences in the rates to these points. No increases in the rates to Cincinnati are proposed except that on sheep in double-deck cars which respondent explains was published through error. It is stated, however, that a readjustment of the rates to Cincinnati is contemplated but in order to avoid departure from the long-and-short-haul rule of the fourth section has been deferred pending the establishment of increased rates from Chattanooga, Tenn.

The proposed rates on cattle, horses, and mules do not exceed the present rates, except to Louisville, Paducah, St. Louis, and East St. Louis. Under the C. F. A. and the Oklahoma scales the same rates per 100 pounds apply on hogs and sheep in double-deck cars as on cattle. On hogs and sheep in single-deck cars the rates are 115 per cent and 125 per cent, respectively, of those on like shipments in double-deck cars. In *Dimmitt-Caudle-Smith Live Stock Commission Co. v. R. R. Co.*, 47 I. C. C., 287, rates which substantially conform to the C. F. A. scale were found reasonable for application from points in Missouri to East St. Louis. Taking as a basis the proposed rates on cattle of \$53 to Cincinnati and \$35 to the Ohio River crossings and a hypothetical rate of \$55 to St. Louis and East St. Louis, and applying thereto the rate relationships observed in the C. F. A. scale, the following rates would result. The table also shows for the purpose of comparison the rates per car under the C. F. A. scale for similar distances.

From Nashville to—	Distance.	Cattle, minimum 21,000 pounds.	Hogs and sheep, double deck, minimum 22,000 pounds.	Hogs, single deck, minimum 17,000 pounds.	Sheep, single deck, minimum 14,000 pounds.
	<i>Miles.</i>				
Cincinnati.....	300	\$53.00	\$55.44	\$49.27	\$44.10
C. F. A. scale.....	300	35.70	37.40	33.24	29.75
Ohio River crossings.....	<sup>1</sup> 184	35.00	36.74	32.65	29.26
C. F. A. scale.....	184	29.93	31.35	27.86	24.93
St. Louis.....	323	55.00	57.64	51.22	45.78
C. F. A. scale.....	323	37.28	39.05	34.70	31.07

<sup>1</sup> Average.

The percentage relation of the hypothetical rates to the Ohio River crossings shown in the above table to the C. F. A. scale rates for similar distances is considerably lower than that of those to Cincinnati and St. Louis. It appears, however, that these rates would yield substantially higher earnings per ton-mile for the average haul of 184 miles than the average per ton-mile earnings of class I roads in the southern district on all live stock during the years 1911 to 1914, inclusive, for somewhat shorter average hauls, as shown by our annual reports. The proportional rates from Nashville apply to through traffic destined principally to points in central freight association territory which, for the portion of the haul beyond the river crossings, is subject to the C. F. A. scale rates and minima. They may quite properly be somewhat less than the local rates and should bear a reasonable relation to the total through charges. It would seem that stating these rates in cents per 100 pounds instead of in dollars per car would meet respondent's asser-

tion as to the tendency to overload, and contribute simplicity. We think that the proposed rates on cattle which as stated are substantially the same as the present rates and the rate relationships embodied in the C. F. A. scale fairly may be used as a basis for fixing reasonable maximum rates on other kinds of live stock. Respondent will be required to cancel the suspended schedules without prejudice to the publication of rates which will substantially conform with those suggested in the preceding table.

48 I. C. C.

INVESTIGATION AND SUSPENSION DOCKET No. 958.  
**SHREVEPORT-TEXAS CATTLE, LIGNITE, WOOD, AND  
TANBARK.**

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*Submitted October 11, 1917. Decided January 22, 1918.*

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1. Order of July 7, 1916, in *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, vacated in so far as it applies to lignite, cordwood, and tanbark between Shreveport, La., and points in Texas.
2. Rates and carload minima prescribed in that order on beef and stock cattle between Shreveport and points in Texas modified to provide stock cattle rates to market points and carload minima of 20,000 pounds and 16,000 pounds on stock cattle and on calves, respectively, and to grade the distance scale more closely.

*Gentry Waldo; H. M. Garwood; F. H. Wood; R. C. Fulbright; Andrews, Streetman, Burns & Logue; E. B. Perkins; R. D. Cobb; W. F. Murray; J. W. Terry; J. S. Hershey; L. M. Hogsett; A. H. McKnight; J. F. Garvin; George Thompson; J. B. Payne; M. J. Dowlin; P. H. Welborne; C. H. Guion; W. H. Darwin; J. H. Parwise; W. F. Sterley; John T. Bowe; John M. King; F. A. Adams; N. H. Lassiter; J. C. Mangham; and A. C. Fonda* for respondents.

*B. F. Looney and Luther Nickels* for the attorney general and Railroad Commission of Texas.

*A. V. Coco, W. M. Barrow, Shelby Taylor, and George T. Atkins, jr.*, for Railroad Commission of Louisiana.

*Hamilton Moses and H. M. Gregory* for Railroad Commission of Arkansas.

*W. D. Humphrey* for Corporation Commission of Oklahoma.

*George T. Atkins, jr.*, for Shreveport Chamber of Commerce.

*S. H. Cowan, G. S. Maxwell, S. C. Rowe, U. S. Pawkett, Ed. P. Byars, F. A. Lallier, H. S. L'Hommedieu, D. C. Earnest, V. H. Barsodi, C. W. Payne, R. D. Rynder, Luther M. Walter, A. W. McLaren, W. W. Manker, H. K. Crafts, and W. R. Brown* for protestants.

REPORT OF THE COMMISSION.

**HALL, Chairman:**

This proceeding is an outgrowth of the so-called *Shreveport Case*, reported in *Railroad Commission of La. v. St. L. S. W. Ry. Co.*, 23 I. C. C., 31; *Railroad Commission of Louisiana v. St. L. S. W. Ry. Co.*, 34 I. C. C., 472; *Railroad Commission of Louisiana v. A. H.*

*T. Ry. Co.*, 41 I. C. C., 83; *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 43 I. C. C., 45.

Our report and order of July 7, 1916, 41 I. C. C., 83, *supra*, dealt, among other things, with rates on beef and stock cattle, lignite, cordwood, and tanbark between Shreveport, La., and points in Texas. The rates then in effect on the commodities named were found to be unjust and unreasonable to the extent that they exceeded those there prescribed as just and reasonable rates to be thereafter observed as maxima. Pages 111, 112, and 113. The order further provided that, in order to remove what was found on the record then made to constitute an undue prejudice to Shreveport, respondents should not charge higher rates between Shreveport and points in Texas on the respective commodities than they contemporaneously charged for the transportation of like commodities for like distances within Texas.

Pursuant to this order the carriers filed, to become effective November 1, 1916, tariffs containing the rates named as maxima in the order. These rates were made applicable to the transportation of the designated commodities between Shreveport and points in Texas, and also for transportation within Texas.

Upon protest by various Texas interests, and by the attorney general of Texas and the Railroad Commission of Texas, the operation of the schedules naming rates on the commodities mentioned above was suspended by us until September 1, 1917, and later date. Representatives of packing houses at Fort Worth, Tex., and Oklahoma City, Okla., participated in the proceeding.

Hearings were had at Fort Worth and Dallas, Tex., and a voluminous record made. It became apparent that decision could not be had before expiration of the suspension order and the carriers agreed voluntarily to postpone operation of the rates pending decision. These rates have not been applied to the movement of any traffic.

#### RATES ON LIGNITE, CORDWOOD, AND TANBARK.

At the hearing it was stated on behalf of Shreveport that the discovery and development of natural gas near that city has lessened the demand for other fuel. Rates on tanbark apparently were in issue only because published in the item containing rates on cordwood. Permission was asked to withdraw the Shreveport complaint in so far as it concerns the commodities named.

Comparatively little of the evidence introduced was addressed to the reasonableness of the rates on the three commodities considered under this subhead, and an order will be entered discontinuing the present investigation in so far as it affects them.

Under the requirements of our order of July 7, 1916, *supra*, that the carriers remove the undue prejudice against Shreveport as above described, they elected to increase the Texas intrastate rates to the level of the interstate rates prescribed as maxima. That order will be vacated in so far as it applies to lignite, cordwood, and tanbark.

#### RATES ON BEEF AND STOCK CATTLE

While this proceeding is technically distinct from the *Shreveport Case*, the rates under review were published in the endeavor to comply with our findings in that case, based upon the evidence then before us. Additional evidence is now presented.

This evidence, both oral, and documentary, has been carefully examined and considered, and need not be rehearsed in detail.

As illustrative of the rates under attack those for single-line application are shown in the margin.<sup>1</sup>

Summarized, the principal contentions of the Texas interests are that while the rates between Shreveport and points in Texas generally exceed those for transportation within Texas, there is not sufficient competition to render the rate inequality unduly prejudicial to Shreveport; that the movement between Shreveport and Texas points is too insignificant to warrant us in entering any order that will or may affect the level of rates within Texas; that while in some instances the Texas rates are lower, distance considered, than those between Shreveport and points in Texas, in other cases they are as high; that the evidence of record does not sufficiently establish the similarity of transportation conditions, but, on the other hand, indicates that the cost of handling between Shreveport and Texas points exceeds that of handling like shipments within Texas; that stock

<sup>1</sup> Rates for single-line application:

Miles.	Beef cattle rate. <sup>a</sup>	Miles.	Beef cattle rate. <sup>a</sup>
	Cents.		Cents.
10 and less.....	6	200 and over 150.....	19
20 and over 10.....	7	250 and over 200.....	21
30 and over 20.....	8	300 and over 250.....	23
40 and over 30.....	9	350 and over 300.....	25
50 and over 40.....	10	400 and over 350.....	27
60 and over 50.....	11	500 and over 400.....	31
70 and over 60.....	12	600 and over 500.....	35
80 and over 70.....	13	700 and over 600.....	39
90 and over 80.....	14	800 and over 700.....	43
100 and over 90.....	15	Over 800.....	43
150 and over 100.....	17		

<sup>a</sup> Stock cattle to other than market points, rate 75 per cent of rates on beef cattle.

cattle should take a lower rate than beef cattle; that there should be a stock cattle rate to market points; that the minimum carload weights should not exceed 20,000 pounds for stock cattle and 16,000 pounds for calves; that the evidence does not establish the right of Shreveport to a parity of rates with Texas points; that equalization of rates, if deemed necessary, should be limited to the eastern part of Texas; and that by virtue of the other contentions set forth we are without power to enter an order affecting rates within Texas.

The jurisdictional question has been developed in our reports in the *Shreveport Case, supra*, as has that regarding discrimination against Shreveport. A report in that case was made on the date of this report and may be referred to for our views on these questions. *Railroad Commission of La. v. A. H. T. Ry. Co.*, decided concurrently herewith.

In our report of July 7, 1916, *supra*, we discussed the discrimination against Shreveport, the conditions surrounding the transportation of cattle and the financial condition of the respondents.

We said, at page 119:

The uncontradicted evidence is that no transportation conditions exist which justify rates between Shreveport and points in Texas higher than those contemporaneously applied for like distances within Texas.

The evidence in this proceeding confirms that finding. See also 23 I. C. C., 31, 47, and 34 I. C. C., 472, 475.

All distance scales and group rates must of necessity disregard slight inequalities in cost of service and other conditions. Whether or not a distance scale may properly be prescribed is peculiarly a matter to be determined from a consideration of all the circumstances and conditions. Cattle rates in the territory here affected have been upon a distance basis for many years and the evidence indicates that a different basis would be unsatisfactory. These rates apply over the entire state of Texas, and to restrict to eastern Texas any equalization of the rates to and from Shreveport would not place that city upon an equal footing with points in Texas. There seems to be no reason for a difference in rates between Shreveport and points in Texas and for like distances between points in Texas.

The industry in Texas is gradually changing. With the extension of cotton growing to the western part of the state and the influx of settlers many of the large ranches have been split up into farms or smaller ranches. As one of the protestants' witnesses expressed it, "the cattle business is gradually going into a stock farming business." Shipments are made in smaller lots than in past years. When made in trainloads they are frequently the property of several individuals. Even carload shipments are often aggregated shipments made by shipping associations. Few animals are now raised

and "finished" on the ranch, the stock cattle being sold, and fattened by others and elsewhere for the market.

Much evidence was introduced to the effect that the business is not profitable. Interest charges and other expenses are high and it is asserted that the producers make no more now, under high prices, than they did in the era of lower prices.

The transportation of live stock necessitates certain expenditures not encountered, or not prevailing to the same extent, in the handling of any other traffic. Among the items in evidence are: Construction and maintenance of stock pens; cleaning and disinfection of cars in compliance with quarantine regulations; bedding cars; loading and unloading, with the attendant expense of special loading crews or overtime for train crews; light loading per car, with consequent low earnings per car; necessity for expeditious movement, resulting in light train loading, a correspondingly low efficiency rating for the locomotives used, and occasional interference with the movement of other trains; unloading in transit for feed, water, and rest; high percentage of empty car movement; large proportion of revenue refunded to shippers on account of claims of various kinds; transportation of caretakers; and claims for personal injury to caretakers.

Computations, based on tests at different points or on general knowledge, were submitted to show the cost of cleaning and disinfecting a car. The figures varied. Obviously the expense varies at different points and times, with the number of cars handled, cost of labor and material, and other changes in conditions. Whatever may be the defects in the exhibits it is evident that this service constitutes a substantial item of expense. A charge of \$2.50 per car is assessed for the cleaning and disinfecting service where this is rendered on cars containing interstate shipments, but no similar charge is made on shipments moving within Texas.

What has been said of cleaning and disinfecting applies to other services peculiar to the handling of live stock.

Shipments to market points are as a rule intended to reach destination in time for disposal on a day certain. And in the case of all shipments an average speed in excess of that for ordinary freight must be maintained in order to render satisfactory service. Failure to maintain such speed is likely to result in the filing of claims, or in the imposition of penalties for failure to comply with federal regulations, or in the expense of unloading for food, water, and rest in order to escape such penalties. Special trains are run when a given number of carloads, usually 10 or more but varying with different lines, are presented for shipment. When only a few cars

are offered at one time the trains in which such cars are placed are given expedited service. The fact that the trains must be started promptly hinders heavy loading of trains and results in a low efficiency rating for the locomotives as compared with their potential rating. On one road 5 live-stock trains maintained an average speed of 19 miles, and on another 106 trains carrying only live stock averaged 21.32 miles per hour between terminals.

Data were submitted to show that the empty movement of stock cars is greater than for other classes of equipment, except tank cars which usually move empty in one direction.

Overtime pay results from detention of train crews, who usually assist the shippers in loading and unloading. Some roads employ special loaders, particularly at the larger stations.

In our report of July 7, 1916, *supra*, we commented upon the high percentage relation of loss and damage claims to freight earnings on live stock. The evidence in this proceeding is to the same effect. Such claims include loss of markets, and shrinkage. It appears that the percentage is higher on state than on interstate movement, and the payments heavier on cattle than on other live stock. The amount varies to some extent with the condition of the animals. Some are so weak when shipped as to make loss in transit almost inevitable, and one of the larger roads has such photographed in self-protection. Beef cattle are stronger than stock cattle and less susceptible to injury but lose weight more rapidly. Many of the largest shippers rarely, if ever, file claims and the Cattle Raisers' Association has urged its members to refrain. But, even so, the earnings on this class of traffic are materially offset by payments for loss or damage.

The market values have risen greatly, increasing both the value of the service and the liability of the carriers for loss. That service has improved within the last few years and is satisfactory in the main. The earnings per car and per car-mile are low as compared with those on many other commodities.

Evidence was submitted by the carriers to show the cost of operation on various roads and their financial condition. Particular emphasis was placed upon increases in the cost of labor and materials. This evidence is to the same general effect as that reviewed in our report of July 7, 1916, *supra*, page 100, and set forth in Appendices C and D to that report.

According to an exhibit introduced by a witness for Shreveport the movement over two of the roads serving Shreveport between that city and Waskom, Tex., on the one hand, and points in Texas

other than Waskom on the other, was as follows during the two-year period ended June 30, 1916: From Texas points to Shreveport, 31 cars, to Waskom, 7 cars; to Texas points from Shreveport, 172 cars, from Waskom, 108 cars. It is testified that in the past the usual course was to drive cattle from Shreveport to Waskom and there ship them to destinations in Texas in order to secure the benefit of the lower Texas rates. This practice is said still to prevail to some extent and the shipments to and from Waskom were included in the exhibit for that reason.

Protestants insist that there is nothing of record to prove that any particular shipment or shipments billed to or from Waskom was destined to or originated at Shreveport, and further that the Shreveport shipments include some that originated at or were destined to points beyond Shreveport.

A witness for protestants testified that during November and December, 1916, and January and February, 1917, excluding shipments originating at or destined to points beyond Shreveport, 24 carloads were shipped via all lines serving Shreveport from that city to Texas points and that none moved from Texas to Shreveport during this period. The carriers raise the objection that the period selected is not representative.

Early in 1917 a small packing house began operations at Shreveport. There are several cottonseed oil mills at that point, which furnish facilities for fattening.

Cattle in eastern Texas and western Louisiana are increasing in number and improving in quality. One of the protestants' witnesses, a dealer at Fort Worth, said that there are many in central and western Louisiana, and that a good business between Texas and Louisiana could be built up under a better rate adjustment.

Rates from Shreveport to some points in Texas are as low as the rates on beef cattle for similar distances within Texas. But the same rates apply on beef and stock cattle between Shreveport and Texas, while in Texas practically all cattle move on the lower stock cattle rates except to markets.

One of the protestants' witnesses said that the rate adjustment maintained by respondents does not result in undue prejudice to Shreveport, because Shreveport has but little business and that if Shreveport had the packing facilities of Oklahoma City he would consider the present adjustment unduly prejudicial to Shreveport. This indicates a misapprehension of the scope and purpose of the act to regulate commerce. A rate adjustment that hinders or prevents interstate shipments can not be said to effect no undue prejudice merely because the shipments under that adjustment have been com-

paratively few. One of the primary purposes of the act was to protect the small shipper from undue prejudice. It may be remarked in passing that under the present adjustment the small packing house at Houston, Tex., is accorded the same scale of rates as its large competitors at Fort Worth.

In discussing the competition between the Fort Worth and Oklahoma City markets witnesses for the packers testified that smaller rate differences than those existing against Shreveport are sufficient to divert shipments from one market to the other.

The packers at Oklahoma City contend that the proposed rates are unreasonable to the extent that they exceed those prescribed in *Investigation of Alleged Unreasonable Rates on Meats*, 22 I. C. C., 160. Those at Fort Worth say that under the proposed rates they will be at a disadvantage in competing with Oklahoma City. They urge that the present adjustment remain in effect until we dispose of No. 8436, the *Live Stock and Products Case*. Failing this, they ask that the scale prescribed in *Investigation of Alleged Unreasonable Rates on Meats, supra*, be established pending disposition of No. 8436.

The principal objections to the proposed rates are (1) that the carload minima on stock cattle and calves are too high; (2) that the elimination of the stock cattle rate to market points is unreasonable and will result in great hardship; and (3) that the rates are not well graded, the "spread" being too great in places. These objections will be considered in the order named.

1. The present carload minima within Texas on stock cattle and calves, respectively, are 20,000 pounds and 16,000 pounds for cars 36 feet 7 inches and less in length. They can not be loaded above these minima in cars of ordinary size without such crowding as results in injury. One shipper stated that the average carload weight of 1,252 cars of calves shipped by him was 15,195 pounds.

Calves are easier to load and unload, are less valuable, and are less subject to injury unless overcrowded than the grown animals. One shipper testified that he had not sent a caretaker with a shipment of calves for 10 years.

In several cases we have recognized the propriety of a lower carload minimum on calves than on the matured animals. To offset in some measure the lower earnings per car that would result from the use of such lower minimum we prescribed higher rates in *Investigation of Alleged Unreasonable Rates on Meats, supra*.

2. Various estimates were made as to the proportion of stock cattle in the total movement. In this territory it appears to be more than half, due, in large part, to frequent and prolonged droughts which

necessitate removal to other ranges, or sale at market points to dealers who fatten for slaughter. The animal is frequently moved by rail four or more times before being converted into beef. It is insisted that exclusion of market points from the destinations to which the lower stock cattle rates apply would work great hardship, especially to the smaller shipper whose supply is not sufficient to draw prospective purchasers to the ranch or farm. But outside of these commercial needs there appear to be transportation conditions which justify a difference in rates.

There is considerable difference in value and in weight. Some of the stock cattle will not weigh more than 350 or 450 pounds apiece. It may be that the dividing line is not always clear, and in some instances it may be difficult to determine whether the shipment is of one kind or the other. But this difficulty is inherent in all adjustments where there are different rates on a commodity, or on commodities similar in appearance. The distinction is of many years' standing and is not restricted to this territory. It has heretofore been recognized by us. *Cattle Raisers' Asso. v. Missouri, K. & T. R. Co.*, 11 I. C. C., 276, 312; *Investigation of Alleged Unreasonable Rates on Meats*, 23 I. C. C., 656; *In re Transportation of Stock Cattle and Sheep*, 23 I. C. C., 7; *American National Live Stock Asso. v. S. P. Co.*, 26 I. C. C., 37.

It is not proposed to eliminate the lower rates on stock cattle except to market points. No stock cattle rates to market points were provided under our report and order of July 7, 1916, for the reason that the evidence then indicated that a distinction in rates to market points could not well be maintained. From evidence now before us it appears that a system has been adopted at Fort Worth under which the transportation is adequately policed and the legal rates protected. It would seem that similar safeguards can be adopted at all market points. There are rates on stock cattle to such market points as Chicago and Peoria, Ill., St. Louis, Mo., Hutchinson, Wichita, Arkansas City, and Topeka, Kans., which are 75 per cent of the beef cattle rates. Stock cattle rates to Oklahoma City are also lower than those on beef cattle, but are not on a uniform basis.

3. The protestants and the Shreveport interests unite in testifying that the proposed rates are not well graded. This the carriers concede.

Upon consideration of our report and order of July 7, 1916, in so far as it affects rates on cattle, and of the evidence now before us, we are of opinion and find that the present rates and carload minima for movements of cattle between Shreveport and points in Texas are, and

for the future will be, unjust and unreasonable in so far as they may exceed the rates and carload minima named below, which we find just and reasonable:

<sup>1</sup> Stock cattle rates 75 per cent of rates on beef cattle.

<sup>2</sup> For application over one line of railroad, or two or more lines of railroad under the same management and control.

<sup>3</sup> For application over two or more lines of railroad not under the same management and control.

Rates on calves 115 per cent of rates on grown cattle.

Subject to the following carload minima for transportation over railroads of standard gauge:

	Length of cars, inside measurement.	
	36 feet 7 inches and over 34 feet.	40 feet and over 36 feet 7 inches.
	<i>Pounds.</i>	<i>Pounds.</i>
Beef cattle.....	23,000	24,500
Stock cattle.....	20,000	21,000
Calves (in single-deck cars).....	16,000	16,500

When cars exceed 40 feet in length 24 per cent may be added to the minimum for 40-foot cars for each foot or fraction thereof in excess of 40 feet.

We are further of opinion and find that respondents' rates on cattle in carloads between Shreveport and points in Texas are, and for the future will be, unduly prejudicial to Shreveport in so far as such rates exceed those contemporaneously applied for like distances between points in Texas.

In reaching these conclusions we are not unmindful of the suggestion made by the packers that the scale prescribed by us in *Investigation of Alleged Unreasonable Rates on Meats, supra*, be prescribed in this proceeding for use until the issuance of a report in No. 8436. The case first named was reopened in *Investigation of Alleged Unreasonable Rates on Meats*, 23 I. C. C., 656, upon petition of various interested parties, "for no one of them is satisfied," but after "having carefully weighed the propositions advanced by each, for they all have a different solution of their own," we declined to modify the mileage scale theretofore prescribed. In doing so we said:

As stated in the original opinion, these mileage scales are not prescribed as ideally correct, but rather to fit the situation before us.

So also in *In re Transportation of Live Stock*, 25 I. C. C., 63, we said regarding the same scale that it "was not fixed as an ideal scale applicable in all cases." The table in the margin<sup>1</sup> setting forth rates on beef cattle for representative distances under (1) the Texas-commission scale, (2) the scale established in 22 I. C. C., 160, and (3) that prescribed in this proceeding, shows that the differences between (2) and (3) are comparatively slight.

Oklahoma City is approximately 145 miles by the Chicago, Rock Island & Gulf and 180 miles by the Missouri, Kansas & Texas from the Texas-Oklahoma state line. Shipments of Texas cattle to Oklahoma City move over distances ranging from 200 to 800 miles. For such distances the rates here prescribed are in no instance more than 1½ cents higher than the rates in column (2) which apply on cattle from Texas points to Oklahoma City, and in some instances are from 2 to 3 cents lower. The present relation between the rates from Texas points to Fort Worth, on the one hand, and Oklahoma City on the other, for distances greater than 200 miles shows a marked

<sup>1</sup> Rates on beef cattle for single-line application:

Miles.	(1)	(2)	(3)	Miles.	(1)	(2)	(3)
	Cents.	Cents.	Cents.		Cents.	Cents.	Cents.
10.....	6	5.5	6	260.....	20	20.5	22
20.....	7	6	7	280.....	20	21.5	23
30.....	8	6.5	8	300.....	20	22.5	24
40.....	9	7.5	9	330.....	21.25	24	25
50.....	10	8.75	10	360.....	22.5	25.5	26
60.....	10.5	9.5	11	390.....	22.5	27	27
80.....	11.5	11.5	13	420.....	23.75	28.5	28
100.....	12.5	12.5	14	450.....	23.75	30	29
120.....	13.75	13.5	15	500.....	25	32	31
140.....	15	14.5	16	550.....	26.25	34	33
160.....	16.25	15.5	17	600.....	27.5	36	34
180.....	17.5	16.5	18	650.....	28.75	38	36
200.....	17.5	17.5	19	700.....	30	40	38
220.....	18.75	18.5	20	750.....	31.25	42	39
240.....	18.75	19.5	21	800.....	32.5	44	41

advantage to Fort Worth, increasing with the distance, as illustrated by the figures shown in columns (1) and (2), which the Fort Worth packers admit constitutes a discrimination against Oklahoma City. The rates from Texas points to Oklahoma City are not before us in this proceeding for review or correction. They were established by us some years ago in the light of the evidence in that case, but the increasing use of larger and heavier cars, heavier engines, heavier rails, and the heavier train loading, with resulting economies in the handling of dead freight, have had no corresponding effect in the transportation of cattle. The cars must not be overcrowded and the trains must move promptly when loaded whether the load is large or small. On the other hand, increases in the expense of operation, such as increased wages of trainmen and increased cost of ties, rails, fuel, and other materials and supplies have combined to increase the cost of this service.

The conclusions reached are subject to any modification that may be found necessary in No. 8436, *Live Stock and Products Case*.

Our order of July 7, 1916, will be vacated in so far as it applies to rates on cattle and an appropriate order entered herein.

48 I. C. C.

No. 9715.  
T. M. SINCLAIR & COMPANY, LIMITED,  
v.  
CHICAGO, MILWAUKEE & ST. PAUL RAILWAY  
COMPANY ET AL.

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*Submitted October 4, 1917. Decided February 4, 1918.*

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**Rates for the transportation of fresh meats, packing-house products, and other provisions, in peddler cars, from Cedar Rapids, Iowa, to points on the lines of defendants east of Chicago, Ill., found unreasonable to the extent that they exceed the lowest combination of rates to and from the Mississippi River.**

*Walter E. McCornack* for complainant.

*Ernest S. Ballard* for Michigan Central Railroad Company and Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

*A. F. Cleveland* for Chicago & North Western Railway Company.

*C. A. Lahey* for Chicago, Milwaukee & St. Paul Railway Company and Chicago, Rock Island & Pacific Railway Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

Complainant operates a meat-packing plant at Cedar Rapids, Iowa. Its complaint is that the less-than-carload rates assessed by defendants on shipments of fresh meats, packing-house products, and other provisions, in peddler cars, from Cedar Rapids to points east of Chicago on the lines of the Michigan Central Railroad and other defendants, parties to Michigan Central Railroad tariff I. C. C. No. 4946, are illegal, unreasonable, and unduly prejudicial. Details of shipments delivered subsequent to February 6, 1915, were filed with the Commission under dates of February 5, 1917, and May 3, 1917, for the purpose of staying the running of the statute of limitations.

The tariff of the Michigan Central Railroad, above referred to, contains the rules and regulations applicable to commodities shipped in peddler cars from packing houses to destinations on the lines of that carrier and concurring carriers. Its application is limited to shipments from Chicago, Joliet, and Union Stock Yards, Ill., Gibson Yard and Hammond, Ind., and Cudahy and Milwaukee, Wis. The lowest rates from Cedar Rapids to points on the lines of defendants east of Chicago are made by combination on the Mississippi River and the collection of freight charges from complainant was

originally based on this combination. By reason of the limited application of the peddler-car tariff, however, charges were later assessed on the basis of the higher combination of rates to and from Chicago. Complainant questions the propriety of these additional charges.

Defendants do not undertake to justify the limitations in the peddler-car tariff which prevent its application to shipments of packing-house products from Cedar Rapids and other points basing on the Mississippi River except upon the payment of rates for transportation which are higher than the through rates from point of origin to final destination. They concede that the charges based on the Chicago combination would be unreasonable. They also express their willingness to amend the tariff to permit its application in the future to traffic from western points taking rates based on the Mississippi River combination.

The Commission should find that the present rates for the transportation of fresh meats, packing-house products, and other provisions, in peddler cars, from Cedar Rapids to the points of destination provided for in Michigan Central tariff I. C. C. No. 4946 are unreasonable to the extent that they exceed the lowest combination of rates to and from the Mississippi River. As the record shows that complainant has paid charges based on the lowest combination an order awarding reparation is unnecessary. The undercharges on shipments delivered subsequent to February 5, 1915, should be waived.

HARLAN, *Commissioner*:

The foregoing statement of the facts in the case, prepared by the examiner who presided at the hearing, is in entire accord with the evidence adduced and fully justifies the conclusions he has reached; and those conclusions have already been complied with by a tariff duly filed with the Commission. Under the circumstances therefore no order is necessary, and none will be entered.

48 I. C. C.

**INVESTIGATION AND SUSPENSION DOCKET No. 1097.**  
**COTTONSEED PRODUCTS TO TEXAS.**

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*Submitted November 6, 1917. Decided February 8, 1918.*

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Proposed increased rates on cottonseed cake, meal, and hulls, in carloads, to points in Texas on the lines of the Chicago, Rock Island & Gulf Railway Company from points on the lines of the Chicago, Rock Island & Pacific Railway Company in Oklahoma, found not to have been justified. Suggested that commodity rates be established on the basis of rates prescribed in *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, 115.

*N. H. Lassiter* and *N. J. Dowlin* for respondents.

*J. H. Johnston* for Oklahoma Cottonseed Crushers Association.

*W. D. Humphrey, J. M. Gayle, H. L. Bennett, and P. A. Walker* for Corporation Commission of Oklahoma.

**REPORT OF THE COMMISSION.**

**DIVISION 1, COMMISSIONERS MOCHORD, MEYER, AND AITCHISON.**

By schedules, filed to take effect May 31, 1917, the respondents proposed to increase rates for the transportation of cottonseed cake, meal, and hulls, in carloads, to certain points in the state of Texas from producing points in the state of Oklahoma. Upon protest of the Oklahoma Cottonseed Crushers Association the schedules were suspended by appropriate orders until March 28, 1918.

It is proposed in the suspended schedules to increase carload commodity rates on cottonseed cake, meal, and hulls to about 30 destinations in Texas on the lines of the Chicago, Rock Island & Gulf from 20 oil mills in Oklahoma on the lines of the Chicago, Rock Island & Pacific. The Chicago, Rock Island & Gulf and Chicago, Rock Island & Pacific will be hereinafter collectively called the Rock Island.

The destinations involved are in what is known as the panhandle of Texas, hereinafter called the panhandle, which is included in the large area of western Texas described as "differential territory." Rates generally to points in that territory are higher by certain amounts, dependent upon the distance of haul in the territory, than those applying between Shreveport, La., and points in Texas common-point territory, and between points in Texas. The panhandle is directly west of Oklahoma.

Rates on cottonseed products now in effect from Oklahoma to the panhandle, as stated by the Rock Island's witness, were established

after the decision in *Investigation of Advances in Rates on Cottonseed Products*, 25 I. C. C., 237, and the basis used was the scale prescribed by the Railroad Commission of Texas for movements within the state of Texas. The respondents assert that the proposed increased rates result from a necessary readjustment ascribable to the decision in *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, 115, hereinafter called the *Shreveport Case*. In that case a scale of maximum rates was fixed on cottonseed cake, meal, and hulls from Shreveport, La., to Texas destinations, and as a means of removing unjust discrimination, for application also within the state of Texas. Rates, which hereinafter will be named in cents per 100 pounds, for joint line application, were permitted to exceed the single line scale by  $1\frac{1}{2}$  cents; and rates to points in differential territory were permitted to exceed the maxima by a scale of differentials ranging from 1 cent for 50 miles or less to 5 cents for distances over 150 miles, on cake and meal, and from 1 to 4 cents on hulls for like distances. The rates prescribed in the *Shreveport Case* were made effective November 1, 1916, and they represent increases over the preexisting rates. It is asserted by respondents that whatever distinctions may properly be made in rates on other commodities, the fact that Texas and Oklahoma form a continuous cotton-producing belt or region make it desirable from the standpoint of all interests that a reasonable relationship be established and maintained between rates on cottonseed products in the state of Texas, and the rates applicable to like traffic from Oklahoma points to Texas.

Exhibits were filed by the Rock Island, which assumed the burden of justifying the proposed increased rates, to show the present and proposed rates from all cotton product mills in Oklahoma on the lines of the Rock Island, 20 in number, to all points in Texas included in the suspended schedules, about 30 in number, compared with rates prescribed in the *Shreveport Case* for similar distances. It will suffice to select one point in the western, central, and southern part of Oklahoma as illustrative. The following table, compiled from exhibits filed by the Rock Island, shows distances in miles; the rates now in effect; the proposed rates; and the rates for similar distances prescribed in the *Shreveport Case*:

48 I. C. C.



As the destinations are all in differential territory the rates are higher by the prescribed differentials than the Commission scale between points in Texas common-point territory.

An examination of the table discloses that approximately one-third of the rates are higher than those prescribed for the same distances in the *Shreveport Case*.

It is pointed out by respondents that the Commission found in the *Shreveport Case* that the haul from Shreveport to points in Texas interstate common-point territory "seldom exceeds 500 miles." It is asserted by the Rock Island that the Commission blanketed a scale beyond 360 miles with the maximum haul of 500 miles in mind; that on shipments from Oklahoma to the panhandle the haul exceeds 500 miles in numerous instances. The following examples are given:

	Miles,
Ardmore to Texhoma.....	782
Bilby to Stratford.....	615
Chandler to Texhoma.....	599
McAlester to Conlen.....	622
Wapanucka to Rehm.....	666
Wapanucka to Chamberlin.....	685
Wapanucka to Texhoma.....	726

The Rock Island's line extends west from Oklahoma and enters the panhandle at Benonine, passes through Amarillo, Tex., and

reaches into New Mexico. At Tucumcari, N. Mex., the Oklahoma line joins the main line of the Rock Island system, which reaches that point from the northeast, traversing the northwestern corner of the panhandle. A shipment moving from Oklahoma to a station on the main line of the Rock Island in the northwest corner of the panhandle passes out of Texas into New Mexico en route. The short line to points on the Rock Island in the northwestern part of the panhandle is via Amarillo and the Fort Worth & Denver City, and the distances would be materially less to the points above named if the short line were used.

The Rock Island's witness stated that at the time the increased rates here proposed were considered, it was also considered that similar increased rates should be made to New Mexico points. When the proposed increases to Texas points were suspended, rates to New Mexico could not be increased without creating fourth section departures. It was stated that the Rock Island proposes when rates to Texas from Oklahoma are established as a result of this proceeding to establish relative rates to points in New Mexico.

It is asserted by the Rock Island that the publication of increased rates on cottonseed products to points in the panhandle from Texas operates to discriminate against Texas shippers so long as lower rates are maintained from Oklahoma points to Texas. It is insisted, however, that it does not follow in view of the geographical situation as between Texas and Oklahoma that the Shreveport scale should be literally applied in disregard of the differences in maximum hauls. It is argued that it is not to be presumed that in the Shreveport scale the Commission would have stopped at 360 miles, if it had not found that the maximum haul from Shreveport to Texas did not exceed 500 miles. In the *Shreveport Case* rates on cake and meal were graded by adding 1 cent for each 20 miles of increasing distance over 100 miles, terminating the scale at 360 miles, and blanketing the rate for all distances within the state of Texas. In the suspended schedules the respondents propose rates on cake and meal by building upon the Shreveport scale 1 cent for each 20 miles of additional haul, except that 1 cent is added for the last 25 miles, the scale ending at 425 miles. On hulls the gradation of the Shreveport scale of 1 cent for each additional 20 miles up to 500 miles is used, then one-half cent is added for each 25 miles to 600 miles. The rates are not published in a scale but are named specifically to each point, and their measure is determined by the method above described. To the rates made by grading beyond 360 miles as stated, respondents propose to add the differentials permitted in the *Shreveport Case*.

The protestant filed numerous exhibits comparing the present and proposed rates with rates maintained by the Rock Island from

Memphis, Tenn., to points in the state of Arkansas; from points in Arkansas to points in Oklahoma; and from Memphis and points in Arkansas to points in Louisiana. It is not necessary to set out these exhibits in detail. It is sufficient to state that the ton per mile yield from the proposed rates are higher than those with which they are compared. Comparisons also show that the proposed rates average an increase of about 25 per cent over the rates now in effect from Oklahoma points to the panhandle. Comparison was also made with the rates prescribed by the Commission in *Oklahoma Cottonseed Crushers Asso. v. M., K. & T. Ry. Co.*, 39 I. C. C., 497, 511. The rates prescribed in that case were on cottonseed cake, meal, and hulls to Kansas City, Mo., and points in states north of Oklahoma. Because the proposed rates are somewhat higher than those prescribed in the above-named case, the protestant contends that the former are unreasonable.

Witness for protestant testified that if a straight mileage scale was to be established by respondents and other carriers so that the Oklahoma shipper to Texas points was placed on the same basis mile for mile as the Texas shipper, there would be no cause for complaint. Objection was made by the witness to the adjustment to differential territory, and particularly from Oklahoma to the panhandle.

The question presented here is largely one of relationship of rates between shipping points in Texas and Oklahoma to common destinations in the panhandle. The Commission in the *Shreveport Case* prescribed a scale of maximum rates from Texas points to the panhandle on a higher basis than previously existed. Conditions of transportation are not materially different to the panhandle from Texas and Oklahoma. The mere fact that lower rates are maintained from Memphis to various points and between points in Arkansas and Oklahoma, and on shipments to Kansas City and points in states north of Oklahoma is not proof that the proposed rates are unreasonable. The conditions of transportation to the points with which comparisons are made are not shown.

Inasmuch as the Commission had prescribed reasonable maximum rates from Texas points to the panhandle, and those rates have been established, the respondents would be justified in putting shippers from Oklahoma on the same basis. In the proposed schedules this has not been accomplished. Materially higher rates are named from Oklahoma than are named for the same distances under the Shreveport scale. The reasons given by respondents for the departure from a uniform basis are not persuasive.

There are no hauls of 500 miles from any cotton mill in Oklahoma involved in this proceeding to the Texas panhandle border. The average haul is less than 400 miles. There are routes from Oklahoma

to points in differential territory by which the distances traversed in that territory are greater than on hauls from Texas. These longer hauls are necessary, in part, because of the fact that as the Rock Island lines run there is what might be termed a long back haul involved to reach points in the northwestern part of the panhandle. As before stated, these hauls would be materially shortened if the short-line route is used, and the added rate might be charged for the two-line haul. It is probable that even should the rates prescribed in the *Shreveport Case* be observed in making rates from Oklahoma to the panhandle, some rates will be slightly higher than for similar distances from Texas because of the longer hauls in differential territory. This is a disadvantage of location that the respondents ought not to be required to equalize by freight rates. If the cottonseed product mills of Oklahoma are to be put substantially on the same basis, distance considered, as the cottonseed product mills of Texas, the maximum rates prescribed in the *Shreveport Case* should be observed from both states. The relation of rates between cake and meal and hulls, prescribed in the *Shreveport Case*, should also be maintained from Oklahoma for the same reason.

I recommend that the Commission find that the respondents have failed to justify the rates under suspension in this proceeding and that they be required to cancel the suspended schedules. I further recommend that this be done without prejudice to respondents to file rates on cottonseed cake, meal, and hulls from the Oklahoma points here involved to points in the panhandle that shall conform to the rates prescribed in the *Shreveport Case*.

MEYER, *Commissioner*:

The foregoing proposed report of the attorney-examiner was served upon the parties. Exceptions were filed by the respondents and protestants, and the case was submitted without argument. No material error of fact is alleged or pointed out by the parties. They except to the conclusion suggested by the attorney-examiner. We are of opinion that the proposed conclusion is correct, and the report of the attorney-examiner and the findings therein are adopted.

An order will be entered accordingly.

48 I. C. C.

No. 9097.  
NORTHERN POTATO TRAFFIC ASSOCIATION  
v.  
BALTIMORE & OHIO RAILROAD COMPANY ET AL.

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*Submitted November 20, 1917. Decided February 4, 1918.*

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Former finding as to reasonable carload minima on potatoes from points in Minnesota to points in official classification territory east of the Indiana-Illinois state line, modified in the light of additional evidence. Further found that a reasonable minimum for the month of May would be 30,000 pounds.

*O. W. Tong* for complainant.

*D. P. Connell* for official classification lines; *D. Riely* for Manistee & Northeastern Railroad; *W. J. Kelly* for Grand Rapids & Indiana Railway and Pennsylvania lines; *A. F. Cleveland* for Chicago & North Western Railway Company; *W. C. Lewis* for Michigan Central Railway; *R. P. Paterson* for Pere Marquette Railway; *C. A. Lahey* for Chicago, Milwaukee & St. Paul Railway; *R. G. Brown* for Chicago, Rock Island & Pacific Railway; *P. B. Beidelman* for Great Northern Railway; and *L. R. Capron* for Northern Pacific Railway.

*F. W. Hinyan* for Loveland & Hinyan Company and Michigan-Miller Potato Company, interveners.

REPORT OF THE COMMISSION ON REHEARING.

CLARK, *Commissioner*:

In our original report, 43 I. C. C., 545, we found, among other things, that the carload minima on potatoes from certain points in Minnesota to points in official classification territory east of the Indiana-Illinois state line, of 36,000 pounds during the months October to May, inclusive, and 30,000 pounds during the remainder of the year, had been justified, except as to cars 36 feet or less in length, outside measurement, when equipped with noncollapsible end ice bunkers, and cars under 31 feet in length, inside measurement, for which an all-year minimum of not to exceed 30,000 pounds was prescribed. Upon petition of defendants, and certain carriers located in the southern peninsula of Michigan that asked leave to intervene, the case was reopened for further hearing upon the question of reasonable minimum weights. Loveland & Hinyan Company and Miller-

Michigan Potato Company, of Grand Rapids, Mich., intervened at the hearing.

Defendants and the intervening carriers and shippers ask that our exception of short cars from the 36,000-pound minimum applicable October to May, inclusive, be withdrawn, on the ground that it is practicable to load such cars to that minimum during those months, and that our order created or increased a preference in favor of Minnesota shippers to the prejudice and disadvantage of shippers from the southern peninsula of Michigan, where higher minima apply on all cars. In December, 1916, the minimum from the southern peninsula of Michigan to points in official classification territory was increased from 36,000 pounds to 45,000 pounds for the months October to May, inclusive. Complaints were filed against this increase, but a compromise was agreed upon, under which the complaints were dismissed and the following minima established, effective in May, 1917: For the months October to April, inclusive, 45,000 pounds on potatoes in sacks, and for the remainder of the year 30,000 pounds in bulk or in sacks. The compromise agreement obligated the Michigan carriers to seek a corresponding readjustment of the minima from Minnesota and other states to official classification territory, in order to place all shippers to that territory on an equality.

Michigan is one of the most important potato producing states, and in large proportion its potatoes are transported by rail to points in official classification territory. Except that the producing sections of the southern peninsula lie somewhat nearer to the principal markets in official classification territory, there are no substantial differences in the conditions surrounding the transportation of potatoes from Michigan and from Minnesota to official classification territory.

For the Grand Rapids & Indiana Railway it is shown that the actual loading of potatoes originating at Michigan points on its line between November 15, 1916, and January 30, 1917, amounting to 437 cars, averaged 44,443 pounds per car. Of these cars, 120 were less than 31 feet in length inside and the loading in them averaged 43,476 pounds. This road has about 100 refrigerator cars, 27 feet 10 inches in length inside measurement, capacity 1,615 cubic feet, which were loaded in many instances during December and January in excess of 45,000 pounds. The actual loading of potatoes at stations on the Manistee & Northeastern Railroad between September 1, 1916, and June 30, 1917, was in practically all instances equal to or in excess of the minimum, many refrigerator cars less than 31 feet in length inside having contained 750 bushels or 45,000 pounds, and in some instances more than that quantity. At the more important

potato shipping points on the Pere Marquette Railway in Michigan from January 1 to June 1, 1917, many cars less than 31 feet in length inside were loaded to or in excess of the minimum of 45,000 pounds. These movements of heavy loads in short cars were often to distant points of which Cincinnati, Ohio, and Pittsburgh, Pa., are representative.

It is contended for complainant that during the winter months Michigan shippers remove the stoves after heating the cars and load the space opposite the doors with potatoes, which practice can not safely be followed in Minnesota. But a Michigan shipper testified that, while in some instances during mild weather when the hauls are short cars are so loaded, it is usual to place bulkheads on each side of the doors and to leave the space between the doors open. The only difference in the manner of loading seems to be that the space reserved for the stove between the doors is kept open with bulkheads by the Michigan shippers while the Minnesota shippers stow the sacks so as to protect this space without using bulkheads. It is admitted for complainant that more potatoes can be loaded when bulkheads are used. Complainant introduced evidence as to the cubic contents of a sack of potatoes, from which it is argued that 36,000 pounds can not be loaded into small cars, but defendants' evidence of actual loading is more convincing.

In the original record it appeared that the greater number of cars furnished to members of the complaining association were of the smaller sizes. Complainant's witness who testified at the first hearing that from 60 to 70 per cent of the cars loaded were less than 31 feet in length inside, admitted upon rehearing that this testimony was erroneous; that he knew of no box cars less than 31 feet in length inside being furnished, and that the percentage of refrigerator cars less than 31 feet in length inside was small. The Railway Equipment Register for January, 1917, shows that there are less than 200 carrier-owned box cars under 31 feet in length inside in use throughout the entire country. It appears from the additional evidence upon rehearing that the number of small refrigerator cars in use on the Michigan lines equals or exceeds that on the lines in Minnesota. The Great Northern Railway owns a few refrigerator or insulated cars of less than 1,400 cubic feet capacity, which probably could not be loaded to a minimum of 36,000 pounds and leave sufficient room for a stove, but with this exception the refrigerator cars used on the Minnesota lines are no smaller than those used on the Michigan lines.

Upon the whole record it is fairly established that there are very few, if any, cars used in the Minnesota potato traffic that can not safely be loaded to a minimum of 36,000 pounds, except during the warm months.

It is contended for complainant that during the month of May potatoes can not be loaded in excess of 30,000 pounds without danger of overheating, and that for that month a minimum of 30,000 pounds should be established from Minnesota points to official classification territory. The representative of the official classification lines stated of record that the carriers intend to publish the same minima on potatoes from Minnesota to official classification territory as apply from Michigan and that in so doing the minimum for May would be reduced from 36,000 pounds to 30,000 pounds.

Complainant's objections to any higher minima on potatoes than those found justified in our original report seem to be based largely upon commercial considerations, that is, upon the fact that many buyers prefer to buy in smaller quantities, but the carriers assert that an increased minimum will merely require buyers to accept larger shipments and will not materially affect the trade. While shippers should not be compelled to pay charges based on a minimum which can not ordinarily be loaded into the car furnished, the public interest and the conditions affecting car supply require that cars be loaded as heavily as is consistent. Increased minima on potatoes will doubtless tend to increase the average loading, but we are not to be understood as expressing any opinion as to the reasonableness of the increased minima from Michigan, which the carriers contemplate making applicable from Minnesota and other territories.

Upon consideration of all the evidence, we find that, on shipments of potatoes in carloads from the points in the state of Minnesota to the points in official classification territory east of the Indiana-Illinois state line embraced in the complaint, defendants and interveners have justified, for all cars of not less than 1,615 cubic feet capacity, a minimum of 36,000 pounds during the months October to April, inclusive, and for all cars a minimum of 30,000 pounds during the months June to September, inclusive; that the present minimum from and to said points during the month of May has not been justified; and that a just and reasonable minimum from and to said points during the month of May is, and for the future will be, not in excess of 30,000 pounds for all cars.

Appropriate order will be entered.

48 I. C. C.

No. 9438.

HELENA TRAFFIC BUREAU

v.

MISSOURI PACIFIC RAILWAY COMPANY ET AL.

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*Submitted July 10, 1917. Decided February 4, 1918.*

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Rates on potatoes in carloads from points in Minnesota, Wisconsin, Colorado, and Wyoming to Helena, Ark., found unduly prejudicial to Helena and unduly preferential of Memphis, Tenn. Reasonable relationship prescribed for the future.

*M. W. Martin* for complainant.

*A. P. Humburg, H. G. Herbel, F. G. Wright, F. B. Clark, and J. L. Sheppard* for defendants.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

Complainant is a voluntary organization composed of shippers and receivers of freight at Helena, Ark. Its complaint, filed January 15, 1917, alleges that defendants' rates on potatoes in carloads from points in Minnesota, Wisconsin, Colorado, and Wyoming to Helena are unreasonable, unjustly discriminatory, unduly prejudicial to Helena, and unduly preferential of Memphis, Tenn., and asks that rates to Helena be prescribed for the future not in excess of the rates contemporaneously maintained to Memphis. The prayer was subsequently amended to request rates to Helena from points in Minnesota and Wisconsin not exceeding the rates to Memphis from the same points by more than 1 cent per 100 pounds, and rates from points in Colorado and Wyoming 1.5 cents per 100 pounds lower than those contemporaneously applicable to Memphis. Although unreasonableness is alleged, the issue was narrowed at the hearing to undue prejudice. Rates are stated in cents per 100 pounds.

Helena is on the west bank of the Mississippi River, 64 miles via the short rail line south of Memphis. It is served by branch lines of three carriers and is not reached by the main line of any defendant. From the Wisconsin and Minnesota territory of origin the rate to Helena exceeds that to Memphis by 10 cents, while from points of origin in Colorado and Wyoming the difference in rates in favor of Memphis is 8 cents. The average length of haul from stations in

Minnesota and Wisconsin to Helena exceeds that from the same points to Memphis by about 66 miles, while from Colorado and Wyoming the difference in length of haul in favor of Memphis ranges from 10 to 31 miles.

Complainant urges that under the present rate adjustment dealers in potatoes at Helena are unable successfully to compete with Memphis jobbers; that by reason of the lower rates obtaining into Memphis the jobbers at that point quote lower prices in the common territory of distribution; and that by the combination of the lower rail rate into Memphis and the boat line rate from Memphis to Helena, the Memphis interests can even place their potatoes in the Helena market at the same figure as complainant's members located in Helena.

The territory of origin in Wisconsin and Minnesota consists of groups differentially adjusted and all maintaining a difference of 10 cents in the rates to Memphis under the rates to Helena. The rates from the various groups are as follows:

From—	To Memphis.	To Helena.
	Cents.	Cents.
Group 1.....	32.5	42.5
Group 2.....	33	43
Group 3.....	33.5	43.5
Group 4.....	34	44
Group 5.....	34.5	44.5

These rates, defendants contend, were constructed with the St. Louis-Memphis rate as a trunk or base rate. Group 1, centering around St. Paul and Minneapolis, was given a rate 10.5 cents over the St. Louis-Memphis trunk rate, while to Helena the rate was made over the St. Louis-Helena rate by an addition of 12.5 cents. Defendants aver that the case resolves itself into the identical issue passed upon by the Commission in No. 5659, *Helena Freight Bureau v. M. P. Ry. Co.*, unreported, decided May 4, 1914, wherein it was found that rates on classes and commodities, including, among others, rates on potatoes from St. Louis to Helena, were not unreasonable or unduly prejudicial to Helena or unduly preferential of Memphis. Defendants' justification of the existing adjustment is therefore in large measure a reproduction of the evidence in that case. They allege, and this is admitted by complainants, that circumstances have not changed since the promulgation of that report, and that the same difference in degree of water competition and other conditions at Memphis and Helena as was there found to exist are in evidence to-day, and, if anything, intensified. It follows, defendants argue, that the rates under attack from Wisconsin and Minnesota, reflecting these conditions and being based upon the St. Louis trunk rate,

must also be found not unduly prejudicial to complainant. The latter, on the other hand, points out that the case cited did not cover potato shipments from Colorado and Wyoming, and intones the fact, unexplained by defendants, that whereas a 10.5-cent differential is added to the St. Louis-Memphis rate to determine the rate to Memphis from this Wisconsin and Minnesota territory of origin, the Helena rate is obtained by the addition of a 12.5-cent arbitrary to the St. Louis-Helena rate upheld in the *Helena Case, supra*.

Defendants show that Helena is the northern point of a blanket of destination extending to New Orleans, and that Memphis is not included therein; that this blanket arrangement was initiated by the boat lines before the advent of the rail carriers in this territory, and that the latter adopted the arrangement when they first entered the field. Emphasis is laid upon this adjustment as originated by the boat lines to show that the present arrangement is one forced upon the carriers and one resulting in a subnormal basis of rates. It is shown that the rates are not made on a distance basis, but on the water competition which is actual at Memphis while largely potential at Helena. Complainant, on the other hand, replies that a group basis of rates established under stress of competitive conditions can not be the justification for undue prejudice against Helena. *Southwestern Missouri Millers Club v. M., K. & T. Ry. Co.*, 22 I. C. C., 422-425; *Suffern Grain Co. v. I. C. R. R. Co.*, 22 I. C. C., 178-181. Complainant further maintains that the difference between the potato rates of the boat lines from St. Louis to Helena and Memphis is but 1 cent, and that this should be the measure of the difference in the rail carriers' rates to the two points. This, coupled with the removal of the difference between the differentials over the St. Louis rate above cited, would result in rates to Helena from Wisconsin and Minnesota 1 cent higher than the rates to Memphis. Defendants contend with force that their meeting water competition at one point does not necessarily involve their meeting water competition to an identical degree at another destination. But while carriers may have an option in meeting water competition, they may not exercise this option to the undue prejudice of any locality.

Potatoes are rated sixth class, carloads, in southern classification, which governs the movement from Wisconsin and Minnesota to Memphis and Helena. The sixth-class rate from those points to Memphis is 44 cents, while Helena takes the New Orleans rate of 49 cents.

Defendants contend that water competition is also indirectly reflected in the rate adjustment from Colorado and Wyoming to Helena and Memphis, the water-compelled St. Louis rate being pivotal in competition centering at Kansas City. Under the present

situation the rate to Helena is 58 cents and that to Memphis 50 cents, thus resulting in a difference in favor of Memphis of 8 cents per 100 pounds. In the tariff suspended in Investigation and Suspension Docket 1024 defendants attempted to increase the rate to Memphis to 54 cents, which would have reduced the spread as between Memphis and Helena to 4 cents. This case has since been submitted, but decision therein has not yet been rendered. Complainant urges that the difference in distance in the haul to Memphis and Helena is but from 10 to 30 miles, the haul being over the same route as far as Wynne, Ark., a point not distant from Memphis; that a bridge service is involved in the haul to Memphis via the direct routes, for which service in *City of Memphis v. C., R. I. & P. Ry. Co.*, 39 I. C. C., 256, we approved an arbitrary of 1.5 cents per 100 pounds on the class to which this commodity belongs. The difference in distance being negligible considering the total haul involved, complainant argues that the rates to Helena should, therefore, be less than the rates to Memphis by the amount of this 1.5-cent charge for the bridge service incident to the haul to Memphis via what they allege to be the direct line. Defendants insist that the reverse is true when delivery is effected via the logical routes, and that the bridge service is attendant on traffic delivered at Helena where routing is via the east-side lines.

In western classification, which governs the traffic from points in Wyoming and Colorado to Memphis and Helena, potatoes, carloads, are rated class "C." The class C rate to both Helena and Memphis is 54 cents per 100 pounds.

It sufficiently appears from the decision in the *Helena Case, supra*, and the additional evidence presented on this record that carriers have justified some difference in the rates to Memphis and Helena from stations in Wisconsin and Minnesota. It is shown in detail that the water competition at Memphis is constant and actual, that point being the terminus and interchange point of boat lines plying north and south on the Mississippi River. Water competition at Helena, on the other hand, is largely potential. Furthermore, Memphis is served by 11 rail carriers, while, as before stated, Helena is situated on the main line of none, and is served only by branch lines. However, the record convinces us that the reflection of this water competition on the Mississippi River as far back as these Wisconsin and Minnesota points of origin does not justify a spread of 10 cents in the rates from points in that region to Memphis and Helena. The showing of record also supports the contention that this water competition does not warrant a spread of 8 cents in the rates from Colorado and Wyoming points of origin to Memphis and Helena.

We are of opinion and find that the rates on carload shipments of potatoes from specified Wisconsin and Minnesota groups of origin to Helena are unduly prejudicial to Helena in so far as they exceed by more than 5 cents per 100 pounds the rates contemporaneously maintained from the same groups to Memphis, and that similarly the rates on potatoes, carloads, from Wyoming and Colorado points of origin to Helena are unduly prejudicial to Helena in so far as they exceed those contemporaneously applicable from the same points to Memphis. There is nothing appearing in the record in this case which would seem to warrant the removal of the undue prejudice herein found to exist by an increase in the rates to Memphis.

An appropriate order will be entered.

48 I. C. C.

**No. 8418.<sup>1</sup>**  
**RAILROAD COMMISSION OF LOUISIANA**  
*v.*  
**ARANSAS HARBOR TERMINAL RAILWAY COMPANY**  
**ET AL.**

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*Submitted October 13, 1917. Decided January 22, 1918.*

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Upon rehearing, *Held*:

1. That the order herein of July 7, 1916, prescribing reasonable maximum class rates and rates on certain commodities between Shreveport, La., and points in Texas should be modified in the particulars stated.
2. That it is unnecessary in this proceeding to prescribe commodity rates between Shreveport and Texas points on stone (rough); cottonseed oil and tank bottoms; binder twine; baskets; chocolate raw materials; glassware (table); horse and mule shoes; wrapping paper; printing paper; tin articles; wire and nails; door locks; tools, files, and rasps in carloads.
3. That it would result in undue prejudice to Shreveport for defendants to apply between Shreveport and Texas points any higher class rates or higher rates on the following commodities, in carloads, namely: Horses and mules; sand and gravel; common brick; fire brick; junk; machinery (gin and irrigation); glass fruit jars and bottles; iron and steel articles; potatoes and turnips; fruits, melons, and vegetables; empty barrels and kegs; blackstrap molasses; cotton seed, cottonseed cake and meal; cottonseed hulls and bran, rice bran, and rice hulls; unshelled peanuts; flour; wheat; corn; hay; agricultural implements (except hand implements); bagging and ties; cans, cases, and palls (tin); dry goods; window glass; oil (refined petroleum); iron and steel pipe; on other commodities taking the same rates; and on cotton piece goods, coarse, less than carloads; barrels, less than carloads; straight or mixed carloads of beverages, and of beverages and mineral or spring water; than they contemporaneously apply to the transportation of like commodities for like distances between Texas, except as noted in the report.
4. That the portion of the order requiring the application of the current western classification to the transportation of property between points in Texas should be modified.

*George T. Atkins, jr., W. M. Barrow, Shelby Taylor, and B. A. Bridges* for complainant and the Shreveport Chamber of Commerce.

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<sup>1</sup> This report also embraces No. 3918, Railroad Commission of Louisiana *v.* St. Louis Southwestern Railway Company et al.; No. 8290, Railroad Commission of Louisiana *v.* St. Louis, San Francisco & Texas Railway Company et al.; and Investigation and Suspension Dockets Nos. 710, Eastern Texas Class Rates, and 729, Class Rates to Shreveport, La.

*J. W. Terry, H. M. Garwood, R. C. Fulbright, A. C. Fonda, J. S. Hershey, C. C. Dana, P. H. Welborn, L. B. Simmons, C. C. Huff, A. H. McKnight, J. L. West, L. M. Hogsett, J. B. Payne, John T. Bowe, E. B. Perkins, J. B. Brooks, and C. H. Guion* for defendants and respondents.

*B. F. Looney and Luther Nickels* for the attorney general and the Railroad Commission of Texas.

*S. H. Cowan, N. A. Steadman, G. S. Maxwell, Paul Kayser, J. A. Morgan, F. A. Lallier, A. W. Reeves, E. M. Gleason, E. P. Byars, U. S. Pawkett, H. D. Driscoll, A. S. Stinnett, J. E. Bryant, H. L. L'Homedieu, Charles H. Bland, H. H. Haynes, W. D. Humphrey, Walter Sager, J. M. Gayle, H. L. Bennett, H. M. Gregory, H. Moses, J. H. Johnston, W. V. Hardie, H. K. Crafts, W. W. Manker, R. D. Rynder, S. D. Burt, G. H. Zimmerman, E. H. Ratcliff, H. B. Dorsey, John A. Smith, E. P. Gaines, A. A. McWhinnie, E. C. Nettles, E. E. Eikel, B. D. Pelton, and F. E. Potts* for various intervening interests.

#### REPORT OF THE COMMISSION ON REHEARING.

*HALL, Chairman:*

On March 7, 1911, the Railroad Commission of Louisiana, hereinafter termed the complainant, under direction of the legislature of that state filed a complaint, docketed as No. 3918. It alleged that rates for the transportation of freight from Shreveport, La., to points in eastern Texas were unreasonable and unduly prejudicial to Shreveport as compared with rates on like traffic from competing Texas points to destinations in Texas.

In our report thereon, *Railroad Commission of La. v. St. L. S. W. Ry. Co.*, 23 I. C. C., 31, we found that the allegations of the complaint had been sustained. As illustrative of the rate adjustment it appeared that a rate of 60 cents carried first-class traffic a distance of 160 miles to the eastward from Dallas, Tex., while the same rate would carry the same class of traffic only 55 miles from Shreveport into Texas. Commodity rates presented much the same situation. For instance, the rate on furniture from Dallas to Longview, Tex., 124 miles, was 24.8 cents, and that from Shreveport to Longview, 65.7 miles, was 35 cents. We found that Shreveport competed with the Texas cities, that the difference in rates was substantial, and that it injuriously affected the commerce of Shreveport.

We found, among other things, that the interstate class rates from Shreveport to specified points in Texas were unreasonable, and prescribed maximum class rates for this traffic substantially the same as those fixed by the Railroad Commission of Texas, hereinafter called the Texas commission, for like distances within that state. The report stated that it would be the duty of the defendant carriers under the order duly and justly to equalize the terms and conditions upon

which they would extend transportation to traffic of a similar character moving into Texas from Shreveport with that moving wholly within Texas, but that, in effecting such equalization, the class-scale rates as prescribed should not be exceeded. The order further required the three defendant carriers named to "abstain from exacting any higher rates for the transportation of any article" from Shreveport to Dallas, Tex., and points intermediate via the lines of the Texas & Pacific, and from Shreveport to Houston, Tex., and points intermediate via the lines of the Houston, East & West Texas and the Houston & Shreveport, "than are contemporaneously exacted for the transportation of such articles from Dallas or Houston for an equal distance toward said Shreveport."

The defendant carriers brought a proceeding in the Commerce Court to set aside this order upon the ground that it exceeded our authority, but later their attack was confined to the portion of it last cited. The order was upheld in *Texas & P. Ry. Co. v. United States*, 205 Fed., 380. The decision of the Commerce Court was sustained by the Supreme Court of the United States in *Houston & Texas Ry. v. United States*, 234 U. S., 342. In its opinion the Supreme Court said:

We are not unmindful of the gravity of the question that is presented when state and federal views conflict. But it was recognized at the beginning that the nation could not prosper if interstate and foreign trade were governed by many masters, and where the interests of the freedom of interstate commerce are involved the judgment of Congress and of the agencies it lawfully establishes must control.

Our report and order had declared the doctrine that carriers engaged in interstate commerce could not prefer state traffic to the undue prejudice of interstate commerce, either of their own volition or under the seeming compulsion of state requirements, but, being restricted in operation to three carriers, did not, as a practical matter, afford complainant the full relief to which it believed itself entitled. Accordingly a supplemental hearing was had upon petition by complainant for additional relief. The evidence adduced at this hearing was largely to the same general effect as that presented in the original hearing.

On June 17, 1915, we made a supplemental report and order, *Railroad Commission of Louisiana v. St. L. S. W. Ry. Co.*, 34 I. C. C., 472. This order, which applied to many carriers not parties to the original proceeding, required, among other things, that all the carriers named therein should establish and maintain from Shreveport to points in territory described and defined as "eastern Texas," and from those points toward Shreveport, class rates no higher than a certain distance scale there found reasonable. The order also required the carriers there defendant to cease and desist from charg-

ing, demanding, collecting, or receiving rates for the transportation of any commodity from Shreveport to destinations in eastern Texas higher than those contemporaneously applied to the transportation of such commodity for an equal distance from points in eastern Texas toward Shreveport, or higher, distance considered, than the corresponding class rates named in the order. In order to remove what was found to be unjust discrimination the defendants were further required to establish, maintain, and apply to the transportation of traffic from points in eastern Texas toward Shreveport the provisions of the current western classification in effect at the time the traffic moved.

In alleged compliance with the supplemental order the defendants published in various tariffs a scale of class rates. The rates published in these tariffs between Shreveport and cities in the extreme eastern part of Texas on the one hand and points along and east of the Brazos River on the other were materially higher than the rates from the eastern Texas cities to points west of the Brazos River. This produced discriminations against traffic, both state and interstate, for which no adequate justification could be shown. Upon protest of interested parties representing various cities, commercial organizations, and industries in the state of Texas, we postponed until further notice the effective date of the supplemental order and by appropriate order suspended the schedules containing the proposed rates. The proceeding under this suspension is known as Investigation and Suspension Docket No. 710. Thereafter, under special permission from us the suspended tariffs were canceled.

By other tariffs certain carriers proposed increased class rates on domestic traffic from Galveston and other Texas ports to Shreveport. Upon protest by interested parties the operation of these increased rates was suspended by appropriate orders in the proceeding known as Investigation and Suspension Docket No. 729.

Upon the record then made the relief accorded complainants by our supplemental report and order, *supra*, was limited to the territory there defined as eastern Texas, and applied only to traffic moving from Shreveport or toward Shreveport. The report and order did not affect rates from and to points in western Texas, although such points might compete with Shreveport at points in eastern Texas, and not all carriers operating in eastern Texas had been made parties defendant.

The complainant, in September, 1915, filed a new complaint, docketed as No. 8290, asking us to extend the terms of our supplemental order to certain other roads operating in eastern Texas not named as defendants in the original or supplemental proceeding. In October, 1915, it filed a third complaint, docketed as No. 8418,

in which it sought to have the requirements of the supplemental order extended to all the railroads in Texas.

By agreement of counsel for all interested parties the five proceedings above named were consolidated for hearing and argument and were disposed of in one report and order, *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, July 7, 1916.

The issues in the consolidated cases, as set forth in that report, were:

(1) The reasonableness of defendants' class and commodity rates between Shreveport and points in Texas; (2) whether or not such class and commodity rates are unduly prejudicial to Shreveport as compared with rates maintained by defendants for the transportation of like property for similar distances within the state of Texas; and (3) whether or not the application of the provisions of the western classification to the transportation of property between Shreveport and points in Texas while contemporaneously applying the provisions of the Texas classification to the transportation of like property within the state of Texas results in undue prejudice to Shreveport.

The evidence in the consolidated cases showed striking discrepancies between rates, both class and commodity, and in the carload minimum weights in connection therewith for transportation between Shreveport and Texas points on the one hand and those for similar transportation within the state of Texas on the other. A number of examples are given in our report, at pages 87 to 90.

We further said at pages 121 and 122:

It may be regarded as established beyond any possibility of doubt that the present relationship of rates and the difference in classifications has been and is now unduly prejudicial to Shreveport and operates to unduly restrict the trade and commerce of that city. The only excuse for this apparent and admitted discrimination against Shreveport is the claim of the carriers that the intrastate rates in Texas are under the control of the Texas Railroad Commission and that the carriers are powerless to increase them except by permission of that body.

The power and authority of this Commission to make such order in a case of this kind as may be necessary to remove any unlawful discrimination now existing against interstate traffic has been fully sustained by the Supreme Court of the United States in *Houston & Texas Ry. v. United States*, *supra*. In that case the court said:

"Wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves control of the other, it is Congress and not the state that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority and the state and not the nation would be supreme within the national field."

If the sole issue were whether or not the present adjustment of class and commodity rates between Shreveport and points in Texas is unduly prejudicial to Shreveport, it would be competent for us, if we found that complainants had sustained their allegations, to make an order requiring defendants to remove such undue prejudice. In the absence of other requirements by federal or state authorities, such an order could be complied with by increasing the

Texas rates to the level of the interstate rate or by reducing the interstate rates to the intrastate basis.

Should the latter alternative be adopted, either voluntarily or under compulsion of the state authorities, the intrastate rates and regulations would be given extraterritorial force and would become the standard for interstate commerce. The effect of adopting such a plan would not stop with Shreveport. Alexandria and Monroe, La., Vicksburg, Miss., and other points are in competition with Shreveport for trade and commerce to and from Texas and, so far as we are advised, there is no more reason for extending the Texas rates and classification to Shreveport than to other points in Louisiana or other states east of the Mississippi River.

It can easily be conceived that if carriers, in removing undue prejudice against interstate commerce, were bound to follow the standard set by the state authorities interstate rates, based in part on the requirements of one state and in part on those of others, would soon be in inextricable and intolerable confusion, productive of discord, and ruinous alike to shippers and carriers. This the commerce clause of the constitution, under which the Congress has created this Commission and vested it with power, was designed to prevent.

In this proceeding the allegation of undue prejudice is not the sole issue. Defendants' class rates and many of their commodity rates are attacked as unjust and unreasonable.

It is perhaps unnecessary to say that the findings and conclusions of state commissions respecting the reasonableness of intrastate rates should be given great weight, that rates established in accordance with such findings should not lightly be disturbed, and that we consider it our duty to cooperate in every proper way with the state authorities.

But the obligation placed upon us by the law requires us to exercise our best judgment upon the facts placed before us and, in a case such as this, to prescribe just and reasonable maximum rates and enter such order as shall prevent or remove undue prejudice to interstate commerce, even though in some instances such action may incidentally affect the level of intrastate rates.

Briefly, we found that the class rates and rates on certain specified commodities between Shreveport and points in Texas were unreasonable and unduly prejudicial to Shreveport, as compared with similar rates for like distances in Texas; and that the application to the transportation of property within Texas of classification rules different from and minimum carload weights lower than those applicable to transportation of like property between Shreveport and Texas points was unduly prejudicial to Shreveport. Reasonable maximum rates between Shreveport and Texas points were prescribed and the undue prejudice found to exist was ordered removed, the order becoming effective November 1, 1916.

Upon the evidence adduced at this second rehearing we modified in some respects the scale of class rates previously prescribed as maximum. The modifications so made were principally with regard to rates for short distances and were largely due to the showing made respecting terminal expenses, as set forth in the report.

Subsequent to the issuance of this report and order, but before the effective date of the latter, petitions were filed on behalf of the state

of Texas, the attorney general of Texas, and of various localities and commercial interests of Texas, asking for the suspension of the tariffs purporting to comply with our order, and for a full hearing in respect of the rates contained in those tariffs.

Informal hearing was had October 19 and 20, 1916, on these requests for suspension. At this hearing full opportunity was afforded for the presentation of objections to the proposed rates. As a result, we suspended the operation of items in the tariffs naming rates on beef and stock cattle, lignite, cordwood, and tanbark, pending an investigation of the propriety thereof; but we declined to suspend the tariff in its entirety. This suspension proceeding is known as Investigation and Suspension Docket No. 958. The rates there suspended are the subject of a separate report. 48 I. C. C., 283.

Some of the petitions asked that these proceedings be reopened. Upon consideration thereof we ordered that oral argument be had on December 6, 1916, to determine (1) whether or not these proceedings should be reopened; and if so, for what purposes and to what extent; and (2) if reopened what further parties, if any, should be permitted to intervene. Our report on these petitions for reopening is *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 43 I. C. C., 45, decided January 26, 1917.

In that report, after reviewing the arguments of the various parties and quoting from our thirtieth annual report to the Congress, submitted December 1, 1916, we said, page 48:

We are not advised as to the reasons prompting the Railroad Commission of Texas to refrain from participation in these proceedings until after the issuance of our report and order of July 7, 1916. Presumably they were sufficient for that body in the exercise of its discretion, and it is not our province to consider them. There is no provision in the act for compelling any party to intervene in a proceeding before us, and such participation would necessarily have been entirely voluntary.

The situation now presented is that the state of Texas and the Railroad Commission of Texas, represented by the constituted authorities of that state, wish to have these proceedings reopened on the ground that new and material evidence will be submitted and that the authorities of the state will cooperate with us in bringing about a just and reasonable settlement of this question. The authorities of the state of Louisiana do not object to such a reopening. \* \* \* Under the circumstances recited above we are of opinion and conclude that these proceedings should be reopened for further hearing, the order of July 7, 1916, to remain in full force and effect pending such hearing and decision thereon.

These proceedings have been reheard, briefs have been submitted, and oral argument has been had.

Prior to the rehearing the persons appearing at the argument of December 6, 1916, and others, were advised as follows:

In order that all parties desiring to present their views may be heard and that a clear and concise record be made it is desired that evidence regarding the various subjects under consideration be presented in the following order:

I. Any alleged erroneous statement of fact in the Commission's report of July 7, 1916, giving specific page reference to any portion of the record relied upon.

II. Any change in transportation conditions since the record upon which that report is based was made.

III. Class rates between Shreveport and points in Texas. In this connection the parties may present evidence relating to the necessity for and propriety of dividing Texas into common-point and differential territories so far as traffic between Shreveport and Texas points is concerned and the necessity for and propriety of adding differentials for joint line hauls as defined in the report and order of July 7, 1916.

IV. Rates between Shreveport and points in Texas on the following commodities as defined in the report and order of July 7, 1916, such commodities to be considered in the order stated below:

1, horses and mules; 2, stone (rough); 3, sand and gravel; 4, common brick; 5, fire brick; 6, junk; 7, machinery (gin and irrigation); 8, glass fruit jars and bottles; 9, iron and steel articles; 10, potatoes and turnips; 11, fruits, melons, and vegetables; 12, empty barrels and kegs; 13, blackstrap molasses; 14, cotton seed and products; 15, unshelled peanuts; 16, flour; 17, wheat; 18, corn; 19, hay; 20, agricultural implements (except hand implements); 21, bagging and ties; 22, binder twine; 23, cans, cases, and pails (tin); 24, baskets; 25, chocolate raw materials; 26, dry goods; 27, window glass; 28, glassware (table); 29, horse and mule shoes; 30, oil (refined petroleum); 31, iron and steel pipe; 32, wrapping paper; 33, printing paper; 34, tin articles; 35, wire and nails; 36, door locks; 37, tools, files, and rasps.

V. Application and use of the western classification under the order of July 7, 1916.

VI. Such evidence regarding the financial condition of defendant carriers and other matters relating thereto as the parties may desire to present.

VII. Any other evidence pertinent to the issues in these proceedings which the parties may wish to present.

In this report the same order will be followed except that the application of the western classification to intrastate rates in Texas will be considered as subdivision IV, immediately after the discussion of class rates with which it is somewhat intimately related, and commodity rates as subdivision V.

Throughout this report rates will be stated in cents per 100 pounds, except as otherwise specified; the term "single line" will refer to one line of railroad, or two or more lines of railroad under the same management and control; and the term "joint line" to two or more lines of railroad not under the same management and control. Reference to years is to fiscal years ending June 30 of the year mentioned unless otherwise stated.

#### I. ALLEGED ERRORS OF FACT IN REPORT OF JULY 7, 1916.

The only statements of fact contained in our report of July 7, 1916, which are claimed to be erroneous are the following, as urged by the Texas commission and the attorney general of Texas:

1. That we erred in saying on page 119 of the report:

The uncontradicted evidence is that no transportation conditions exist which justify rates between Shreveport and points in Texas higher than those contemporaneously applied for like distances in Texas.

and on page 123,

There appear to be no transportation conditions requiring the application of different classifications on interstate and intrastate traffic to destinations in Texas.

The testimony of various witnesses was referred to as not supporting our finding. Of the eight railroads serving Shreveport, three, viz, the Missouri, Kansas & Texas Railway Company of Texas, the Houston & Shreveport Railroad, a part of the Southern Pacific system, and the Texas & Pacific Railway Company are among the most important traversing the state of Texas. Shreveport is 20 miles from the Texas-Louisiana state line, and has a population of 35,000 or more. It is a division terminal for some of the systems serving Texas; has a valuable commerce on all the lines leading from it to Texas; and there many of the trains operating over these lines are made up or end their runs. Upon reconsideration of the evidence at the former hearings, and consideration of that submitted on rehearing, the conclusion is irresistible that there are no transportation conditions affecting traffic to or from Shreveport which justify a higher scale of class rates between that point and points in Texas than between the cities and towns in Texas.

2. That we erred in saying at page 91 that the known station costs per ton of 2,000 pounds for one handling of less-than-car-load traffic were \$1.77, the contention being that \$1.77 includes the cost both of receiving and delivering such traffic. On reexamination of the evidence respecting these station costs it plainly appears that such costs include but one handling of the freight. Nothing has been shown on rehearing to warrant any different conclusion.

3. That we erred in saying at page 90:

During the last two years one dealer has made shipments from Shreveport of most of the manufactured articles named to many of these cities and towns in western Texas.

It is conceded that the evidence upon which we based this statement tends to support it, but contended that the shipments consisted in part of lumber, upon which the rates are not in controversy, and that the witness on cross-examination admitted that shipments of manufactured articles have not been made to several of the points named. It is clear that Shreveport had made shipments of a large number of manufactured articles to many, but not all, of the cities and towns in Texas, and the report so states.

**4. That we erred in saying at page 118:**

There is no doubt concerning the disparity that exists between the class rates and rates on most commodities from Shreveport to destinations in Texas as compared with rates from Texas points to the same destinations for like distances. It is equally clear that the commodity rates from Texas points to Shreveport are materially higher than the rates to points in Texas for like distances.

It is urged that when our report was made there were in effect certain rates between Shreveport and Texas points no higher than the rates on the same articles for like distances in Texas. This is true, and entirely consistent with what was said. The correctness of the statement as made is confirmed by the evidence offered on rehearing.

5. That the statement on page 123 that the western classification has in large part received our indorsement is incorrect. The report contains a reference to the *Western Classification Case*, 25 I. C. C., 442, in which out of some 1,500 to 2,000 changes made in the western classification when No. 51 replaced No. 50 a limited number were contested, and considered by us. But our report dealt with the principles underlying the construction of this classification, and subsequent observance of the principles there enunciated has affected the classification as a whole. In other reports we have considered other provisions of the classification and the statement, here under challenge, that the existing western classification has in large part received our approval is justified.

**6. That we erred in stating at page 123:**

It has been conclusively shown and we therefore find that the present difference in classifications has been, now is, and for the future would be unduly prejudicial to Shreveport.

Stress is laid upon testimony for Shreveport that it would not be prejudiced by application of the Texas rates between Eagle Pass and El Paso, Tex., or between Alpine and Texline, Tex., in the western portion of the state, and that the witness had no particular interest in the rate or classification applied between such points. Apparently there is little direct commercial competition between a shipper at Shreveport and one at Eagle Pass, Tex., for example, as to shipments from those two points to El Paso, but it must be remembered that the market at any given point is to some extent limited and if its needs are supplied from one point shipments from others are displaced. Substantial discrimination against Shreveport was shown to result from the use of the different classifications by these interstate carriers. The subject will be considered later.

Other specifications of error were made by one of counsel for the Texas interests, but these dealt principally with our conclusions from 48 I. C. C.

the evidence before us and, as said by counsel, are “very largely formal.” It is unnecessary to discuss them.

It may fairly be said that no material statement of fact in the report has been shown to be erroneous or in conflict with the record upon which the report was based.

II. CHANGES IN TRANSPORTATION CONDITIONS.

Under this subdivision certain interveners introduced evidence respecting conditions on eight of the principal railroads of Texas for the year ended June 30, 1916, as compared with the preceding year. These roads were: Fort Worth & Denver City; Galveston, Harrisburg & San Antonio; Gulf, Colorado & Santa Fe; Houston & Texas Central; International & Great Northern; Missouri, Kansas & Texas of Texas; Panhandle & Santa Fe; and the Texas & Pacific. A summary appears in the margin.<sup>1</sup>

The revenues from operation were divided between freight and passenger traffic and were then subdivided between intrastate and interstate traffic. An attempt was then made to divide the operating expenses and value of the property as between freight and passenger traffic and to further subdivide these expenses and values as between

1

	1915	1916
Mileage owned.....	* 7,292.48	7,290.47
Mileage operated.....	9,359.67	9,400.19
Capital stock.....	\$88,366,336.00	\$88,360,505.00
Bonds.....	\$164,907,349.00	\$164,296,559.00
Total stock and bonds.....	\$253,273,685.00	\$252,657,064.00
Texas commission valuation.....	\$202,814,782.75	\$206,968,510.69
Net operating income.....	\$8,977,594.35	\$11,312,567.28
Per mile of road:		
Capital stock.....	\$12,117.46	\$12,120.00
Bonds.....	\$22,613.34	\$22,535.80
Total stock and bonds.....	\$34,730.80	\$34,655.80
Texas commission valuation.....	\$27,811.50	\$28,388.91
Net operating income.....	\$959.18	\$1,203.44
Ratio net operating income:	Per cent.	Per cent.
To bonds.....	4.24	5.34
To stock and bonds.....	2.76	3.47
To Texas commission valuation.....	3.45	4.24

NOTE.—The term “net operating income” as used in the Texas accounting, and in this report, represents what “net income” would be under our accounting if deductions from gross income had not been made of the following accounts, viz: Interest on funded debt, interest on unfunded debt, amortization of discount on funded debt, maintenance of investment organization, and miscellaneous income charges.

The terms “net surplus” and “net deficit” as used in the Texas commission accounting, and in this report, state in two columns under those two heads the figures, plus or minus, which in the accounting prescribed by us appear under the account “net income.”

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intrastate and interstate traffic. The formula used for these divisions appears in the margin.<sup>1</sup>

The Gulf, Colorado & Santa Fe and the St. Louis Southwestern railways had made for comparative purposes a segregation of their operating expenses for certain years between passenger and freight. The witness assumed the results of the segregation so made on these two roads as a criterion of the percentages of operating expenses to be assigned to freight and passenger business on each of the eight roads. Thus if, by the study made on those two roads, the percentage of operating expenses assignable to freight traffic were found to be 70 per cent on the one and 80 per cent on the other, the average of those two figures, or 75 per cent, was assumed by the witness as representing the percentage of operating expenses assignable to freight traffic on each of the eight roads, including one of the two on which the study had been made.

The earnings and expenses of freight and passenger business, respectively, as well as the value of the property, are then further divided between intrastate and interstate traffic in an attempt to show the percentage which each pays upon the value of the property devoted to that service. The work has apparently been done in conformity with the formula used, but the assumptions indulged are such as to deprive it of significance.

<sup>1</sup> Basis for division of operating revenues, operating expenses, taxes, income accounts, and value of property to freight and passenger service and to state and interstate traffic.

Operating revenues.	Between freight and passenger.	Between state and interstate.
Freight revenue.....	Located.....	Located.
Passenger revenue.....	do.....	Do.
Excess baggage revenue.....	do.....	Do.
Parlor and chair car revenue.....	All passenger.....	Number of passengers carried.
Mail revenue.....	do.....	Do.
Express revenue.....	do.....	Do.
Milk revenue.....	do.....	Do.
Other passenger-train revenue.....	do.....	Do.
Switching revenue.....	All freight.....	Number of tons.
Special service train revenue.....	Revenue train mileage.....	Freight tons carried 1 mile, passengers carried 1 mile.
Miscellaneous transfer revenue.....	do.....	Do.
Station and train privilege.....	All passenger.....	Do.
Parcel room receipts.....	do.....	Do.
Storage freight.....	All freight.....	Do.
Storage baggage.....	All passenger.....	Do.
Car service.....	All freight.....	Do.
Telegraph and telephone service.....	Assigned charges to total expenses.	Do.
Rents of buildings and other property.....	do.....	Do.
Miscellaneous.....	do.....	Do.
Joint facilities, revenue, Dr.....	do.....	Do.
Joint facilities, revenue, Cr.....	do.....	Do.
Operating expenses.....	On percentage obtained from Santa Fe results, and Cotton Belt.	Do.
Taxes.....	Total earnings.....	Do.
Hire of equipment.....	Car equipment, locate locomotive equipment on locomotive mileage.	Do.
Other income items.....	Assigned charges to total expenses.	Do.
Value of property.....	Total earnings.....	Do.

The value of the property as a whole is the valuation made by the Texas commission with subsequent additions and betterments. It is contested by the carriers upon the grounds (a) that the original valuation was the result of a superficial examination; (b) that subsequent estimates of the values of these Texas properties by engineers employed by the Texas commission are greatly in excess of the original valuations plus subsequent additions and betterments; and (c) that the valuation so arrived at is far below the estimated value of the various properties by the carriers' engineers.

The estimated total value of these properties is divided between passenger and freight in proportion to the gross earnings of these two branches of the service, although much of the property is used exclusively for one or the other branch. Moreover, such a division of the property is based upon the assumption that the passenger fares and freight rates are rightly related one to another and that each branch of the service bears its proportionate burden. It is admittedly "a rough approximation," and the method used was condemned by the Supreme Court in *The Minnesota Rate Cases*, 230 U. S., 352, 458.

The assumption that the division of operating expenses between passenger and freight on the Gulf, Colorado & Santa Fe and the St. Louis Southwestern made by those roads for comparative purposes represents a proper and correct division for other roads is seriously disputed.

It is further assumed that the average percentages which the freight and passenger expenses bear to the total railway operating expenses of the two roads is the same on each of the eight roads. This can not be true. Thus, for the year ended June 30, 1916, the proportion of railway operating revenues derived from freight traffic was 77.9 per cent on the Panhandle & Santa Fe and 64.9 per cent on the Missouri, Kansas & Texas of Texas. The relative utilization of equipment and facilities for freight and passenger traffic and the proportion of passenger traffic to freight traffic must be dissimilar on these two roads, and the assumption that the same proportion of railway operating expense should be assigned to the freight business on each road can not be even approximately true.

The expenses of the freight traffic thus reached are divided between state and interstate on the basis of ton-miles. This is done in disregard of the fact that the state traffic must bear two terminal expenses within the state while interstate bears only one, and much interstate traffic, particularly on the Texas & Pacific, Galveston, Harrisburg & San Antonio, and the Panhandle & Santa Fe, crosses the state, and should be charged with no terminal expense in Texas. The further fact that the interstate traffic usually moves a greater

distance than the intrastate, as shown by the extract<sup>1</sup> in the margin from the report of the Texas commission for 1916, is also disregarded.

As the average haul interstate greatly exceeds the average haul intrastate, the assignment of expenses on state and interstate freight traffic upon the basis of the number of tons hauled one mile is without justification in reason or foundation in the evidence. It is conceded that the cost is not the same.

Although results secured from application to the St. Louis Southwestern of its own formula are used as a standard for apportioning operating expenses between passenger and freight service, that road was not included among the selected roads for the reason that it was not considered representative of general traffic conditions in the state.

We have discussed this exhibit at some length because it forms the foundation for the claim that the intrastate freight traffic is paying more and the interstate less than their fair and proper proportions toward the upkeep of these railroads.

#### INCREASED PRICES FOR SUPPLIES.

The Gulf, Colorado & Santa Fe Railway introduced as an exhibit a list of supplies used by that railway during the period February 1, 1916, to January 31, 1917. Their cost for the period stated was \$2,344,079, as compared with \$2,061,635.01, the cost of the same supplies in the year 1914, an increase of \$282,443.99, or 13.70 per cent. This represents the actual increased cost of the articles drawn from the storehouse and used during this period. Much of this material had been purchased months before its use. If the current price of the articles used in the year ended January 31, 1917, had been stated instead of the purchase price, the increased cost for the latter period would have been much augmented.

<sup>1</sup> Average distance haul of revenue freight.

	Local.	Interline state.	Interline interstate.	Total.
	Miles.	Miles.	Miles.	Miles.
Fort Worth & Denver City.....	103.04	171.77	215.44	188.94
Gulf, Colorado & Santa Fe.....	111.26	211.43	297.57	236.79
Galveston, Harrisburg & San Antonio.....	112.96	151.74	234.45	253.41
Houston & Texas Central.....	90.07	146.92	215.38	162.64
Panhandle & Santa Fe.....	67.05	179.55	200.38	191.80
Missouri, Kansas & Texas of Texas.....	112.66	120.72	168.61	138.90
International & Great Northern.....	102.29	157.75	276.93	180.51
Texas & Pacific.....	139.88	123.31	256.45	188.83

A statement by the International & Great Northern showed prices paid for articles in 1917 as compared with 1915:

Article.	Price.	
	1915	1917
Knuckles, emergency.....	\$5.00	\$6.00
Knuckles, improved.....	3.25	3.70
Knuckles, major.....	2.25	4.50
Paint, per gallon.....	1.10	1.75
Tank steel, per base.....	1.15	5.75
Fire-box steel, per base.....	1.15	4.50
High-speed drills, each.....	6.65	34.29
Track bolts, per 100 pounds.....	2.16	5.35
Tool steel, per pound.....	.61	3.35
Nuts, per keg.....	4.50	11.70
Rivets, per 100 pounds.....	1.84	4.85
Chain, per ton.....	62.72	85.00
Bar iron, per 100 pounds.....	1.33	3.50
Linseed oil, raw, per gallon.....	.56	1.09
Linseed oil, boiled, per gallon.....	.60	1.11
Coupler, per pair.....	18.00	26.00
Spikes, per 100 pounds.....	1.72	4.00
Nails, per keg.....	2.19	3.96
Sheet iron, black, per 100 pounds.....	2.20	5.50
Sheet iron, galvanized, per 100 pounds.....	3.70	7.25
Cut nails, per 100 pounds.....	1.80	3.75
Fence wire, per 100 pounds.....	1.70	3.15
Barbed wire, per 100 pounds.....	2.70	4.05
Pig iron, No. 2, Birmingham, per ton.....	13.00	33.00

The witness estimated that these increases in the price of material drawn from the general store would increase the cost to that railroad by \$750,000 per year for the year 1917 as compared with 1915.

Evidence in behalf of the Texas & Pacific Railway Company showed increased prices of certain equipment as follows:

	1915	1916	1917
Locomotives, freight.....	\$33,610	\$48,012	\$51,625
Passenger engines.....	23,000	41,500	44,748
Dining cars.....	16,000	23,278	25,030
Coaches.....	12,000	17,104	18,391
Baggage and express cars.....	9,100	13,650	14,033
Combination coach and baggage cars.....	12,190	17,221	18,517
Steam derrick.....	18,500	26,505	28,500
Combination crane and pile driver.....	10,400	14,880	16,000
80,000-pound capacity box car.....	1,000	.....	1,600

On behalf of the Sunset Central lines, embracing the Galveston, Harrisburg & San Antonio Railway, Texas & New Orleans Railroad, Houston & Texas Central Railroad, and the Houston, East & West Texas Railway it was shown that the probable increased cost of materials used on those lines for the calendar year 1917, as compared with 1916, would be \$817,173.71. This is based upon the issues from the company storehouse for January and February, 1917, as compared with the cost of the same articles during the corresponding months of 1916, and represents an increase of 19.82 per cent.

THE ADAMSON LAW.

The increased expense to the railroads in increased wages paid to trainmen, enginemen, switchmen, and hostlers was not accurately

known at the time of the hearing on account of certain differences in interpretation of the application of the Adamson law to various particular services. As construed and admitted by the roads, these increases during the month of January, 1917, amounted to—

Gulf, Colorado & Santa Fe, \$16,264.57, or 11.53 per cent.

Fort Worth & Denver City, \$5,198.70, or 12.75 per cent.

Sunset Central, \$25,000, or 22 per cent.

Frisco north Texas lines, \$2,099.32, or 15.9 per cent.

#### HIRE OF FREIGHT CARS.

The change in the per diem rate for the use of foreign freight cars from 45 cents to 75 cents has been a source of added expense to the Texas carriers because they are, as a whole, scantily provided with cars. For the hire of freight cars they paid in 1915 \$3,560,000, and in 1916 \$3,012,000, more than they received.

#### III. CLASS RATES.

The chief objections to the scale prescribed in our order of July 7, 1916, for use between Shreveport and Texas points, hereinafter termed the Shreveport scale, and to its application by the carriers to traffic in Texas, are:

(a) That Shreveport does not ship all articles moving on class rates to or from all points in Texas and is not in competition with all Texas cities for trade and commerce with other localities in that state; that we have no authority to make an order affecting the Texas rates or the Texas classification except in so far as the existence of such rates and classification has been proven to be unduly prejudicial to Shreveport; and that therefore the order respecting class rates should be so limited as to affect only articles which are shipped to or from Shreveport under class rates and the points to or from which such shipments have been made.

(b) That the rates for the transportation of less-than-carload traffic for short distances are unreasonably high.

(c) That in the desire to disturb conditions as little as possible by attempting to preserve a common-point territory in that state we have prescribed a distance scale for use between Shreveport and points in Texas in which the rates are not properly proportioned to the hauls.

(d) That the reduction of the area formerly included within intra-state common-point territory has resulted in class rates to Amarillo and other cities in western Texas formerly embraced within common-point territory which are unreasonable and unjustly prejudicial to those cities.

(e) That the addition of differentials to the class rates applied in common-point territory for movements within differential territory

over distances of less than 245 miles has produced unreasonable rates in this western section of the state.

(f) That the class rates which have been established in Texas as the result of our order in the Shreveport case are unreasonably high and constitute an undue burden upon the shippers and receivers of intrastate freight.

(g) That since the distance from Shreveport to the Texas-Louisiana state line is approximately 20 miles, we have no authority to prescribe rates in this proceeding for distances of less than 20 miles.

(h) That some of the classes are not properly related one to another.

These objections will be considered in the same order.

(a) It is true that Shreveport does not ship all the articles upon which class rates apply to all points in Texas. During the four consecutive months of November and December, 1916, and January and February, 1917, shipments in less than carloads aggregating 7,548,000 pounds were made under class rates from Shreveport to 375 stations in Texas; and similar shipments, aggregating 1,241,000 pounds, were made to Shreveport from 132 stations in Texas. There are less than 1,400 pay stations in the state of Texas. In the period stated Shreveport made shipments to about 22 per cent and received shipments from about 9½ per cent of these stations. Of the 7,548,000 pounds shipped from Shreveport by far the greater part went to cities and towns in the eastern section of the state, but appreciable amounts were shipped to points scattered over the western section of the state as shown in the margin.<sup>1</sup>

These shipments are characterized as "merchandise," and undoubtedly embrace a considerable variety of articles. No attempt was made to show just what articles were shipped or the classes to which they belong. The representative of the Shreveport in-

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	Pounds.
<sup>1</sup> El Paso.....	8, 999
Sweetwater.....	3, 660
San Angelo.....	5, 505
Brownwood.....	8, 820
Ballinger.....	1, 310
San Antonio.....	6, 006
Lubbock.....	4, 026
Post City.....	2, 635
Big Springs.....	6, 182
Austin.....	1, 014
Comanche.....	4, 625
Crosbytown.....	14, 669
Midland.....	12, 080
Taylor.....	9, 020
Thorndale.....	1, 317
Victoria.....	3, 443
Yoakum.....	1, 289
Pecos.....	930

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terests testified that the merchants of that city are soliciting and securing business not only in east Texas, but in the panhandle, on the basis of the rates now effective, but that the business done in the first four months after the rates became effective is probably not a fair criterion of the business that will be done, for the reason that the territory was new and business had to be developed. The bulk of the less-than-carload shipments from Shreveport to Texas points during that period went to points within a radius of 150 miles. Those to the western part of the state were widely distributed, but comparatively small in quantity, as shown, and probably the shipments to any one point are limited in variety. The like seems to be true in Texas. Less-than-carload shipments from Dallas via the Southern Pacific lines during November and December, 1916, aggregated 4,198½ tons, of which 24 per cent moved for distances of 250 miles or more, and 5.6 per cent for distances of 350 miles or more. Less-than-carload shipments from Houston via the Southern Pacific lines during the same months aggregated 12,473½ tons. Of these 5.3 per cent went to points 250 miles or more from Houston, and only 2.6 per cent moved 350 miles or more. The average haul of Texas intrastate freight for the fiscal year ended June 30, 1916, was 87.69 miles for local freight and 126.8 miles for interline, and it is apparent that the bulk of all intrastate freight moves less than 100 miles from origin. It would seem that the variety and quantity of articles shipped in less than carloads from a given center to these more distant points diminishes with the distance as much as in the case of Shreveport.

The Texas commission has, from time to time, authorized certain emergency rates, and special rates of one sort or another, the effect of which does not substantially impair the accuracy of the statement that, except as hereinafter noted in our conclusions under "4. Points on or near the Gulf of Mexico," all points, large or small, in Texas intrastate common-point territory have been and now are accorded the same general system of rates. Each has the same transportation opportunity. It is not easy to see why Waskom, Marshall, or Jefferson, Tex., for example, should enjoy a full line of class and commodity rates to all points within the state of Texas, and Shreveport be denied the prayer of its complaint for full and equal opportunity with the Texas cities, simply because within a given period that city has not demonstrated its ability to ship all articles to all points. The necessity for placing Shreveport on a parity with Texas points, in so far as rates are concerned, will be discussed later in this report.

(b) The criticism that the Shreveport scale is too high for short distances apparently disregards the evidence before the Texas commission in 1915 and before us at Houston, discussed in our report of July 7, 1916, at page 91, which purported to show that the station

costs at a number of selected Texas stations averaged \$3.54 per ton of 2,000 pounds, or 17.7 cents per 100 pounds, for the two handlings of less-than-carload freight, one at the beginning and one at the end of the rail movement. This includes nothing for loss and damage to property, taxes, line haul, and certain other expenses incurred. On rehearing, the evidence introduced in 1915 respecting station costs was criticized in detail, principally upon the ground that the stations selected may not have been representative of average stations in Texas.

As corroborative of the Texas tests evidence was introduced of like tests covering 64 stations, large and small, in Louisiana, including three of the stations at Shreveport. These showed certain minor items not noted in the Texas tests, were somewhat more elaborate, and developed an average station cost of \$3.57 per ton of 2,000 pounds, or 17.85 cents per 100 pounds. At Shreveport the station costs per ton were: Houston & Shreveport, \$4.14; Louisiana Railway & Navigation, \$3.44; and Texas & Pacific, \$2.48. In Shreveport considerably more freight is handled at the Texas & Pacific station than at the other two together.

A representative of the Oklahoma Railroad Commission gave the results of his study of terminal expenses at 13 stations in Oklahoma to the effect that the cost of handling less-than-carload intrastate shipments at these stations was \$3.11 per ton. Subsequent criticism of his figures by another witness appeared to warrant the conclusion that the cost probably exceeded that figure.

While in general the plans followed in ascertaining the Texas station costs and the Oklahoma terminal costs were similar, there were certain differences in the apportionment of expenses, the principal difference being in the disposition made of costs attributable to shipments transferred as distinguished from those originating or reaching destination at the given station.

A witness for the interveners had made a detailed study of station costs at Fort Worth, Tex., which indicated that such costs were approximately \$2.40 per ton. It was later shown that important elements had been omitted.

It can not be concluded that these costs at the stations selected in Louisiana or Oklahoma are altogether representative of similar costs in Texas. But, making due allowance for any difference in conditions and for divergence in the formulæ used, the results indicate that the costs of handling less-than-carload shipments at stations in this general territory are probably 15 cents or more per 100 pounds.

The fact that some of the less-than-carload traffic moving in Texas for short distances is being hauled by motor trucks and interurban lines was urged as showing that the rates for short distances are too high. Our transportation systems are now being taxed to the utmost

and it is essential that every means of carriage be utilized to the fullest extent. It is quite possible that some of this traffic can be handled more economically by trucks and by the interurban lines than by the steam roads. The use of trucks, in particular, avoids the necessity for drayage to and from the rail terminals. In any event, no course of reasoning can justify us in requiring carriers to apply to the transportation of this traffic rates which yield less than the cost of handling.

(c) It is true that rates under the Shreveport scale are not in all cases directly proportioned to distance. For example, the rate for 350 miles is applied on certain hauls in common-point territory for distances as great as 500 miles. This objection could be urged with even greater force to the class rates formerly in effect in Texas. The same rate was applied for 500 miles as for 250 miles. This objection is met wherever rates are blanketed over a considerable area.

Many substitutes for the Shreveport scale were proposed by representatives of commercial interests in Texas, apparently with the hope of securing rates for use between Shreveport and Texas points in disregard of common-point or differential territory. Usually their proponents disclaimed the intention of proposing any scale for application on Texas intrastate traffic. These scales were, on the whole, materially lower than the Shreveport scale, and some of them, if applied, would have the effect of reducing the revenues of the carriers considerably below those realized from the rates in effect prior to November 1, 1916.

(d) Amarillo is served by the Chicago, Rock Island & Gulf, the Fort Worth & Denver City, and the Panhandle & Santa Fe railways. It is nearly in the center of the panhandle of Texas and is a flourishing city of approximately 20,000 inhabitants. Although far west of the great body of common-point territory, it has been in Texas intrastate common-point territory since 1905 and has a considerable and valuable commerce. It enjoys the common-point basis of rates on many articles from St. Louis and defined territories. *Texas Common Point Case*, 26 I. C. C., 528. Two of the railways serving Amarillo are among the strongest in the state and it is urged that there is nothing in their financial situation, density of traffic or operating conditions which justifies a higher basis of rates between Amarillo and points in common-point territory than that applied between such points and Shreveport. It is said that in attempting to correct the discriminations formerly existing against Shreveport the rates established have gone further than the necessities of the case require. Rates from Amarillo and all points in the panhandle to cities and towns in the populous section of Texas surrounding Dallas and Fort Worth are now higher, distance considered, than the rates from Shreveport to the same destinations. It is urged that this con-

dition is unduly prejudicial to points in the panhandle and to Amarillo in particular.

(e) Under the rates prescribed by the Texas commission the carriers were authorized to apply differentials only where the hauls exceeded 245 miles. Traffic originating, for example, 100 miles east of the western boundary of common-point territory and moving into differential territory for a total haul of 400 miles was charged the maximum rate applied in common-point territory plus the differential authorized for the difference between 400 miles and 245 miles, or 155 miles, although really moving 300 miles in differential territory. Shipments moved to, from, and between all points in differential territory over distances of 245 miles or less at the rates applied for like hauls in common-point territory. Since differentials were applied in this territory supposedly on account of sparsity of population and traffic, it is difficult to see how application there of a higher rate than in common-point territory for a 300-mile haul but an equal rate for a 200-mile haul could be justified.

In the rates established November 1, 1916, the differentials applied to all hauls in differential territory, whether short or long, with resulting, and substantial, increases in class rates. It is urged that this is unnecessary as a means of correcting discrimination against Shreveport and not warranted by transportation conditions on the railways serving differential territory.

The more important of these railways are nine: The Chicago, Rock Island & Gulf; Fort Worth & Denver City; Galveston, Harrisburg & San Antonio; Gulf, Colorado & Santa Fe; Panhandle & Santa Fe; Kansas City, Mexico & Orient of Texas; International & Great Northern; St. Louis, Brownsville & Mexico; and Texas & Pacific.

These nine roads own about 6,650 miles of line out of a total mileage in the state of approximately 15,600. About one-third of their mileage in Texas is in differential territory. Three of these roads showed a net surplus for the fiscal year 1915 amounting to \$1,720,167. Six showed a net deficit of \$3,414,524. For that year the operation of all the railroads in Texas showed an aggregate net surplus on 36 roads amounting to \$3,699,524, and an aggregate net deficit on 52 roads amounting to \$9,584,420. The year 1916 was a much better year for the railroads in Texas. Five of the nine railroads named produced an aggregate net surplus of \$4,915,772, while four showed an aggregate net deficit of \$1,753,561. For that year, out of 89 roads reporting, 42 showed a net surplus of \$7,197,074, and 47 a net deficit amounting to \$8,153,518. One of the roads, the Kansas City, Mexico & Orient of Texas, failed to earn its operating expenses and taxes in Texas during either of the years noted.

The amount of outstanding indebtedness in bonds or other securities, but not including stock, of these nine roads averages a little less

than \$35,000 per mile of road. The average indebtedness of all the roads in Texas is about \$32,500 per mile. The average value placed by the Texas commission upon the nine roads is \$2,000 per mile greater than upon all roads in Texas. The average value as appraised for taxation of the properties of these nine roads is more than \$4,000 per mile higher than the average of all roads in the state. The average cost of construction and equipment for these roads as reported to the Texas commission June 30, 1916, is \$50,454 per mile as compared with an average cost of \$41,260 per mile for all roads in Texas. It thus appears that these nine roads extending into differential territory are, as a whole, more highly appraised for taxation, more highly valued by the Texas commission, and represent a higher cost per mile as shown by the book cost reported to the Texas commission than the average roads in Texas. It also appears that for 1915 their net deficit was \$254 per mile as compared with an average net deficit on all roads in Texas of \$369 per mile. For 1916 the nine roads, as a whole, showed a net surplus of \$475 per mile, and the average of all roads showed a net deficit of \$60 per mile. What has been said of these nine roads, considered as a group, appears to indicate that their operation of considerable mileage in differential territory has not influenced the results unfavorably. The Kansas City, Mexico & Orient of Texas, considered by itself, is in a far less favorable position than the average of the nine roads. Fifty-four per cent of its mileage is in differential territory, through a sparsely populated section of Texas, and its traffic is extremely light.

(f) Statements showed that the rates between certain points have been increased in some instances by large percentages as a result of our order in the *Shreveport Case*. This is particularly true as to rates between points in differential territory, as exemplified by the comparison in the margin of class rates formerly in effect for distances of 50, 100, and 150 miles and the new rates for corresponding distances.<sup>1</sup> These large increases in class rates for short distances in differential territory, the fact that the principal railroads serving that territory appear to be, as a whole, as prosperous as other roads in the state, and the fact that the rates from points in that territory to points east thereof in common-point territory are

Classes.	50 miles.		100 miles.		150 miles.	
	Old.	New.	Old.	New.	Old.	New.
1.....	27	42	44	63	58	85
2.....	25	35	41	54	54	74
3.....	23	29	38	45	49	62
4.....	21	24	35	39	47	54
5.....	18	19	26	33	33	46
A.....	19	20	27	35	34	44
B.....	16	16	24	26	31	36
C.....	13	14	21	23	27	32
D.....	11	12	16	19	19	27
E.....	8	10	13	16	16	23

now higher than the rates to and from Shreveport for like distances, are urged in support of the claim that these rates are unreasonable in and of themselves.

On the other hand, it was shown by the carriers that the operation of some of the lines in western Texas is attended by operating difficulties not encountered in eastern Texas. For example, water must be hauled to certain stations on the Texas & Pacific for the use of engines and for other purposes. The grades and curves on the western portion of the Galveston, Harrisburg & San Antonio necessitate the use of more powerful engines per unit of traffic hauled than are required in common-point territory. The population per square mile and population per mile of road is much less in western than in eastern Texas. Tonnage originating or terminating per mile of road on the line of the Galveston, Harrisburg & San Antonio in differential territory is about one-fifth of that which is originated or delivered per mile of road in common-point territory. No figures are available in this record comparing the traffic density or number of tons moved 1 mile per mile of road in these two territories via any of the principal lines described. The Galveston, Harrisburg & San Antonio, Texas & Pacific, and the Panhandle & Santa Fe, and perhaps one or two other roads, have considerable transstate traffic that flows across differential territory. It is probable from the facts shown that the traffic density on these lines is somewhat less than on the lines in eastern Texas. It is urged by these lines that whatever measure of prosperity they have enjoyed or now enjoy is not due to the revenue derived from intrastate traffic hauled to, from, or between points in differential territory, but principally to interstate traffic. This finds some support in the record. The table in the margin shows the average haul, average revenue per ton-mile, and total revenue earned by these roads on interline, state, and interstate freight traffic, respectively, during the year ended June 30, 1916.<sup>1</sup>

1

	Average haul.		Revenue per ton-mile.		Revenue.	
	Interline inter-state.	Interline state.	Interline inter-state.	Interline state.	Interline interstate.	Interline state.
	<i>Miles.</i>	<i>Miles.</i>	<i>Cents.</i>	<i>Cents.</i>		
C., R. I. & G.....	94.1	63.5	0.953	1.331	\$1,802,653	\$315,755
F. W. & D. C.....	215.4	171.7	.812	.779	2,253,062	1,284,078
G., H. & S. A.....	334.4	151.7	.561	.656	5,962,861	1,202,728
G., C. & S. F.....	297.5	211.4	.677	.714	5,632,310	2,213,539
I. & G. N.....	276.9	157.7	.924	.804	3,077,232	1,936,506
K. C., M. & O.....	225.4	96.8	.804	1.695	619,065	345,504
P. & S. F.....	200.3	179.5	.680	.815	3,073,010	917,263
St. L., B. & M.....	190.4	160.2	1.569	1.206	492,149	671,497
T. & P.....	256.4	123.3	.775	1.004	4,673,902	2,020,001
Total.....					27,586,244	10,906,871

The total revenue of all the railroads in Texas on interstate freight for the same year was \$41,995,329, of which these nine roads earned 65 per cent. The total revenue from interline state freight traffic was \$19,951,333, of which these roads earned 54 per cent. They also earned 55 per cent of the total revenue from local freight. It is clear, therefore, that these roads are receiving a much larger percentage of their total freight earnings from interstate freight traffic than the average road in Texas. Unless there is considerable difference in character between interstate and intrastate freight, which is not shown, there is no foundation for any claim that interstate freight traffic on these nine roads is paying less than its proportionate share.

The new rates established in common-point territory, while higher than those in effect prior to November 1, 1916, particularly for distances less than 50 miles and greater than 250 miles, were subjected to less severe criticism than the rates to, from, and between points in differential territory. It was shown in our report of July 7, 1916, at page 92, that about 46 per cent of the less-than-carload traffic moves on the fourth-class rate and about 28 per cent on the third class, or nearly three-fourths of this traffic on the two. The old rates and the new for distances ranging from 25 to 250 miles in common-point territory are compared in the margin.<sup>1</sup>

As stated above, the bulk of the less-than-carload traffic in Texas finds its destination within 100 miles of its starting point and only a small percentage moves to distances of 250 miles or more. The claim that these rates are unreasonable or have been unreasonably increased is far from persuasive.

(g) The assertion that we have no authority to require the establishment of rates for distances less than 20 miles relates primarily to the subject of undue prejudice against Shreveport and will be discussed later in the report.

1

Miles.	Third class.		Fourth class.	
	Old.	New.	Old.	New.
25.....	15	21	13	18
50.....	23	26	21	22
75.....	30	33	28	28
100.....	38	37	35	32
125.....	44	44	42	38
150.....	49	49	47	42
175.....	53	53	51	45
200.....	58	56	56	48
225.....	59	59	57	51
250.....	60	63	58	54

The percentage relation of the rates in the Shreveport scale is as follows:

Classes-----	1	2	3	4	5	A	B	C	D	E
Percentages-----	100	85	70	60	50	52	40	35	30	25

The principal criticism of this relationship is as to the fourth and fifth class rates. It was testified that many articles which in less than carloads move under fourth-class rates are classified fifth class in carloads, and that the relationship between these classes in the Shreveport scale does not allow sufficient spread. The percentage relations of fourth class to fifth class for varying distances under the Texas commission scale for the distances given are shown in the margin.<sup>1</sup>

The fourth-class rates from St. Louis to Texas common points are 128 per cent of the fifth-class rates. Under the Shreveport scale the fourth-class rates are 120 per cent of the fifth-class rates.

IV. CLASSIFICATION.

Our order of July 7, 1916, requires the carriers to maintain and apply to the transportation of property between points in Texas the provisions of the current western classification in effect at the time such traffic moves. This order is objected to upon three principal grounds, viz:

- (1) That the western classification, as it now exists and as it may exist in the future, is and will be the creation of the carriers, that it has not been subjected in detail to our examination, and has not, as a whole, received our approval.
- (2) That the rules, ratings, and carload minima of the Texas classification do not in all instances create discrimination against interstate traffic or traffic from and to Shreveport.
- (3) That some of the articles embraced in the classification are not shipped to or from Shreveport.

1 Fourth-class rate for—	Texas commission scale. Per- centage of fifth-class rate	Fourth- class rate for--	Texas commission scale. Per- centage of fifth-class rate.
<i>Miles.</i> 25 50 75 100	118 117 127 134	<i>Miles.</i> 125 150 200 250	140 142 143 131

The first objection has been considered in our discussion of the alleged fifth error of fact in our report. Particular stress was laid by the Texas interests upon the fact that we prescribed for the future not the western classification in effect on the date of our order, but "the provisions of the current western classification in effect at the time such traffic moves." Our orders prescribing ratings or classifications for the future are matters of public concern and are not based upon a fixed and unchanging state of facts. It is obviously undesirable that a classification governing the movement of a vast amount of traffic should for a period of two years be so rigid and inflexible as to prevent or hinder the minor adjustments that changing conditions may render proper. Our order did not, as apparently contended by the interveners, confer upon the carriers the right to make such changes in the classification as they saw fit, regardless of necessity or justice. The carriers' Western Classification Committee is in almost constant session. Its hearings are public and are widely advertised. Through its classification agent this Commission keeps in touch with the proceedings of that classification committee, as well as of those in official and southern classification territories. The prevention of changes that are unreasonable or discriminatory is not left to moral suasion. Since June 18, 1910, we have had the power, in appropriate cases, "whenever there shall be filed with the Commission any schedule stating \* \* \* any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge," to "suspend the operation of such schedule and defer the use of such \* \* \* classification, regulation, or practice" pending investigation. This was strengthened by the addition of the following provision, effective August 9, 1917:

*Provided further*, until January first, nineteen hundred and twenty, no increased rate, fare, charge, or classification shall be filed except after approval thereof has been secured from the Commission. Such approval may, in the discretion of the Commission, be given without formal hearing, and in such case shall not affect any subsequent proceeding relative to such rate, fare, charge, or classification.

The statement that the rules, ratings, and carload minima of the Texas classification do not in all instances result in direct discrimination against interstate traffic is true. It is also true that many of these rules, ratings, and minima do have that effect. In the margin

are shown the carload minima on a number of articles in the respective classifications.<sup>1</sup>

It is apparent that many, though not all, of the carload minima prescribed by the Texas classification are lower than in the western. The ratings of the articles in the Texas classification are also often lower than in the western. There are 825 articles under the Texas classification rated higher than first class, as compared with 1,226 articles so rated in the western. In the margin are shown the ratings on a number of articles of considerable importance.<sup>2</sup>

1		
Article.	Texas classification minima.	Western classification minima.
	Pounds.	Pounds.
Iron and steel articles not provided with commodity ratings.....	24,000	36,000
Billets, blooms, etc.....	24,000	50,000
Muriatic and sulphuric acid.....	24,000	30,000
Cotton bags.....	24,000	30,000
Plate glass.....	20,000	30,000
Sulphate and muriate of potash.....	24,000	40,000
Paper pads or tablets.....	24,000	30,000
Fanning mills.....	20,000	12,000
Animal and poultry food.....	24,000	30,000
Babbitt metal.....	24,000	36,000
Bagging for baling cotton.....	24,000	30,000
Bagging and ties, mixed carload.....	24,000	36,000
Burlap or jute cloth.....	24,000	30,000
Beehives and honey box material.....	24,000	30,000
Slate blackboards.....	24,000	30,000
Blackings.....	24,000	30,000
Bottles, 1 gallon or less capacity.....	24,000	30,000
Bottles, over 1 gallon to 5 gallons capacity.....	24,000	20,000
Wrappers, n. o. s., excelsior.....	20,000	15,000
Straw bottle wrappers.....	20,000	15,000
Paper or pasteboard boxes, k. d.....	20,000	36,000
Wooden boxes.....	10,000	12,000
Wooden packing boxes, nested.....	24,000	18,000
Brooms.....	10,000	12,000
Burial cases.....	11,000	12,000
Pickles, jellies, preserves, etc.....	24,000	36,000

<sup>a</sup> Subject to rule 6-B. <sup>b</sup> For 36-foot car.

2		
Article.	Rating in Texas classification.	Rating in western classification.
Dog biscuits.....	Third class, any quantity.....	Fourth class, l. & l.
Photo negatives, old and returned.....	Fourth class.....	Third class.
Babbitt metal, l. c. l.....	do.....	Do.
Burlap or jute cloth, l. c. l.....	do.....	Do.
Beehives and honey-box material, c. l.....	Class D.....	Class C.
Harness blacking, l. c. l.....	Second class.....	Third class.
Excelsior wrapper, c. l.....	Fifth class.....	Do.
Straw bottle wrappers, c. l.....	Fourth class.....	Do.
Fiber packing boxes, l. c. l.....	do.....	Do.
Fiber packing boxes, c. l.....	Class B.....	Fifth class.
Wooden boxes, c. l.....	Second class.....	Third class.
Burial cases, or coffins, l. & l.....	One and one-half first class.....	Second class.
Casket carriages, l. c. l.....	do.....	First class.
Pickles, jellies, preserves, etc., c. l.....	Class C.....	Fifth class.
Sewed carpet lining, l. c. l.....	First class.....	Third class.
Reels, wire rope, cable, etc., l. c. l.....	Third class.....	Second class.
Sulphate of ammonia, l. c. l.....	First class.....	Do.
Cuspidors, cast iron, l. c. l.....	Fourth class.....	Third class.
Brass or iron beds, c. l.....	Class C.....	Fifth class.
Wooden bedsteads, c. l.....	do.....	Fourth class.
Crackers, c. l.....	Fifth class.....	Do.
Soap, l. & l.....	Fourth class.....	First class.

Some of the principal rules of the Texas classification were contrasted with the corresponding rules of the western in our report of July 7, 1916, on page 106, and are reproduced in the margin.<sup>1</sup>

<sup>1</sup> RULE IN TEXAS CLASSIFICATION.

Rule 5. Unless otherwise specified, minimum weight of 20,000 pounds applies on articles rated third class or higher, 24,000 pounds on articles rated fourth class or lower.

Rule 6. Less-than-carload rates will apply regardless of quantity when no carload rating is named. See rule 26-A below for mixed carloads.

Rule 7. Provision for carload rating on excess over one or more carloads, regardless of minimum weight, except will not apply on live stock, lumber, articles taking lumber rates, sash, doors, blinds, scrap iron, junk, and articles loaded in refrigerator or tank cars.

Rule 12-A. Allows 500 pounds for blocks and 1,000 pounds for racks, no total allowance of over 1,000 pounds, when furnished by shippers for securing freight loaded on flat or gondola cars.

Rule 16. Provides minimum of 5,000 pounds at first-class rate on articles loaded on open cars except on tanks, cisterns, and storm or vegetable cellars set up, which take a minimum of 3,000 pounds.

Rule 17. Provides for one-half rates on return shipments.

Rule 26-A. Makes provision for mixed carloads at the rating and minimum weight applicable on the highest rated article in the car.

Rule 30. Less-than-carload shipments, unless otherwise provided for, classified higher than first class, take a rate of one-half cent per mile per hundredweight, minimum 30 cents per 100 pounds for each line.

Rule 33. Provides for stop-over privilege at charge of \$5 per car for each stop, not over three stops allowed on any single car, on following articles: Beer to unload, three stops; beer packages empty returned to brewers to load; bottled soda water and cocacola to unload; cottonseed cake for grinding; cottonseed oil for refining; earthenware to unload; eggs to finish loading; fresh fruit to load or unload; tropical fruits to unload; junk to load; ice to unload; melons to load or unload; mineral water to unload; poultry to load or unload; soda water and cocacola empties to load; vegetables to load or unload.

RULE IN WESTERN CLASSIFICATION.

No similar rule in western. Minima carried in specific terms, generally 30,000 pounds or higher.

Rule 11. Same as rule 6 of Texas classification, except western also carries provision that no two or more articles shall be carried in mixed carloads at carload rate, unless specifically provided in individual items.

Rule 24. Same provision, but applies only on articles subject to minimum weight of 30,000 pounds or more. Excepts all articles excepted by Texas classification, and in addition furniture, bulk freight, freight requiring heated or ventilated cars, and freight loaded in cars especially prepared either by shippers or carriers.

Rule 27. Allows only 500 pounds for blocks, racks, standards, strips, stakes, or similar bracing, dunnage, or supports.

Rule 20. All articles loaded on open cars take a minimum of 5,000 pounds, at first-class rate, no exceptions.

No provision for one-half rate on return shipments. Full tariff rate applies.

No provision for mixed car lots in western classification except as carried in specific terms.

No similar provision in western. Articles classified higher than first class take classification ratings.

No provision in western classification for stop-over privileges.

Many inconsistencies in the Texas classification were pointed out on rehearing, among them the following:

Finished bedsteads are rated lower than furniture stock in the white or in the rough; brass beds lower than couch material, metal, or bar iron; stepladders higher than furniture; honey lower than glucose; beer lower than ale, porter, stout, ginger ale, or soda water; grass or straw matting and rugs the same as hay and cornstalks; fishing tools the same as bar iron; and coffins set up lower than coffins knocked down. The evidence indicates that the Texas classification is in some respects obsolete. For example, the descriptions do not accord with the articles now shipped. While in some instances the ratings and carload minima discriminate against intrastate shippers, in many respects these ratings, carload minima, and rules, particularly rule 30 of the Texas classification, are such as to result in discrimination against interstate shippers.

The second and third objections deal principally with our power to remove the discrimination against Shreveport, and this will be discussed later.

#### V. COMMODITY RATES.

In our report and order of July 7, 1916, reasonable maximum commodity rates were established for the transportation between Shreveport and Texas points of the following commodities, among others, in carloads: Horses and mules; stone (rough); sand and gravel; common brick; fire brick; junk; machinery (gin and irrigation); glass fruit jars and bottles; iron and steel articles; potatoes and turnips; fruits, melons, and vegetables; empty barrels and kegs; blackstrap molasses; cotton seed, cottonseed cake and meal; cottonseed hulls and bran, rice bran and rice hulls; cottonseed oil and tank bottoms; unshelled peanuts; flour; wheat; corn; and hay. The rates named on these articles, hereinafter called the first group of commodities, in some instances apply upon other articles. For example, the rates on flour apply on grits, hominy, oatmeal, cracked wheat, and a number of other articles. The corn rates apply on oats, milo maize, and Egyptian wheat. The hay rates apply on straw, corn husks, and peanut hulls.

Evidence offered on rehearing purported to show all the shipments between Shreveport and Texas points during the months of January, November and December, 1916, and January, 1917, and shipments via the Houston & Shreveport and Missouri, Kansas & Texas Railway of Texas for February, 1917.

The record of shipments during this period showed no movement of stone (rough) or cottonseed oil or tank bottoms during the period stated. Shipments of brick were shown, but whether of common brick or of fire brick we are not informed. Shipments of the other

articles included in the first group of commodities were made during the period stated, either from or to Shreveport. It is not to be understood that the record showed the movement of all articles embraced under the caption of hay, wheat flour, or other headings which include a considerable number of articles, but that some of the articles so designated moved.

Our order also prescribed reasonable maximum rates on a second group of commodities which move between Shreveport and Texas points on class rates, subject to maximum rates to be applied on these articles from or to points in common-point territory. This group includes agricultural implements, except hand implements; bagging and ties; binder twine; cans, cases, and pails (tin); baskets; chocolate raw materials; dry goods; window glass; glassware (table); horse and mule shoes; oil (refined petroleum); iron and steel pipe; wrapping paper; printing paper; tin articles; wire and nails; door locks; tools, files, and rasps.

The record of shipments for the period stated showed a movement of these commodities except bagging and ties; binder twine; baskets; chocolate raw materials; glassware (table); horse and mule shoes; wrapping paper; printing paper; tin articles; wire and nails; door locks; tools, files, and rasps, in carloads. The movement of bagging and ties is seasonal, and in the natural course of business for the year 1916 would have been concluded before November 1. A number of dealers at Shreveport handle bagging and ties.

The establishment of commodity rates is governed largely by volume of movement and usage in the territory affected. While the data for so limited a period are far from convincing, no necessity appears for prescribing commodity rates upon the articles not shown to have moved, except bagging and ties, and they will not be further considered.

Criticism of the commodity rates followed the same lines as that of class rates. The objections essentially jurisdictional will be considered later in the report. These rates are said to be unreasonable because higher than the rates formerly in effect in Texas; higher in some instances than the rates applied in other states, or the interstate rates elsewhere approved by us on some of the commodities; higher also in some instances, distance considered, than the interstate rates of competitors; imperfectly graded in some instances; and producing car-mile, ton-mile, and per car earnings which are excessive as compared with corresponding earnings on other traffic supposedly comparable, and as compared with such earnings on all traffic.

Recital of the evidence for or against these contentions would serve no useful purpose. It has been carefully considered and rates on certain commodities will be modified.

## VI. FINANCIAL CONDITION OF THE TEXAS RAILROADS.

Analysis of the financial and physical condition of the Texas carriers was made in our report of July 7, 1916, at page 100 et seq., and in Appendices C and D. No criticism of this analysis was made on rehearing.

The situation disclosed by the reports of these carriers to the Texas commission for the years 1915 and 1916 may be summarized as follows: The average investment in the Texas railroads as represented by reports of book value to the Texas commission for the three years 1898, 1899 and 1900 was approximately \$392,421,000. The average investment for the years 1914, 1915 and 1916 was \$643,428,000, an increase of \$251,007,000. The average annual net operating income, available for interest, improvements, etc., during the years 1898, 1899 and 1900 was \$11,976,822, and during the three years 1914, 1915 and 1916, \$15,256,644, an increase of \$3,279,822. This increase amounted to 1.3 per cent on the increased investment. If the year 1916 is compared with the average of the three years 1898, 1899, and 1900, it will be found that the increased net operating income for 1916 is sufficient to yield 2.75 per cent upon the increased investment.

The average investment in the Texas railroads as represented by the valuation made by the Texas commission, together with subsequent additions and betterments as of June 30, 1914, 1915 and 1916, was in round numbers \$412,500,000. The average annual net operating income available for the payment of interest and for additions and betterments was, as stated, \$15,256,644, or 3.7 per cent upon this valuation. An engineer for the Texas commission testified before us in 1908 that the value of the principal Texas railroads at that time, in his judgment, was as much as \$30,000 per mile. That figure taken together with the known cost of subsequent additions and betterments would bring the value of these railroads, including the portions outside of Texas, of the Gulf, Colorado & Santa Fe and of the Texas & Pacific up to \$514,006,000 in 1914; \$526,300,000 in 1915; and \$532,300,000 in 1916, or an average value for the three years of \$524,400,000. The average annual net operating income during these years of these railroads, including the portions outside of Texas, was sufficient to pay 2.9 per cent upon this estimated value.

The net surplus or net deficit for all the railroads in Texas for the several years 1908 to 1916, inclusive, were as follows:

1908, deficit.....	\$6, 294, 769. 33
1909, surplus.....	3, 278, 347. 86
1910, surplus.....	1, 594, 519. 34
1911, surplus.....	507, 108. 29
1912, deficit.....	3, 282, 493. 51

1913, deficit.....	\$1, 601, 378. 31
1914, deficit.....	8, 144, 597. 59 .
1915, deficit.....	5, 884, 896. 26
1916, deficit.....	956, 443. 93
Net deficit for the nine-year period.....	20, 884, 603. 44

The total mileage of the railroads owned in Texas for the year 1916 was 15,623.22. The total funded and unfunded debt was \$508,841,493, or an average of approximately \$32,570 per mile. The interest paid on this debt for the year was approximately \$20,000,000, or almost exactly 4 per cent on the total indebtedness.

The personal injury claims and claims paid on account of loss and damage to freight and baggage, damage to property, and damage to stock on the right of way for the year 1914 were shown in our report to aggregate \$5,625,624, or 4.79 per cent of the railway operating revenues. For the two succeeding years they were as follows:

1915.....	\$5, 102, 573. 00
1916.....	4, 069. 817, 36

The taxes, which in 1914 were \$5,058,269, or 4.32 per cent of the railway operating revenues, were \$4,899,364.25, or 4.56 per cent, in 1915 and \$5,745,414 in 1916, or 5.05 per cent.

In 1915 the Texas roads paid out for rent of equipment and hire of freight cars \$4,560,372.54 more than they received, and in 1916 paid for the same purpose \$4,092,342.88 more than they received.

A check for the month of November, 1916, shows that the rates which became effective on November 1 of that year resulted in an increase in the revenue on intrastate freight traffic amounting to 13.44 per cent on the San Antonio & Aransas Pass, 5.84 per cent on the Gulf, Colorado & Santa Fe, 7.36 per cent on the Chicago, Rock Island & Gulf, 14.05 per cent on the Fort Worth & Denver City, 9.54 per cent on the Wichita Valley, 5.63 per cent on the Trinity & Brazos Valley, 8.11 per cent on the Southern Pacific lines, 6.48 per cent on the Texas & Pacific, 9.95 per cent on the Missouri, Kansas & Texas of Texas, 6.88 per cent on the Kansas City, Mexico & Orient of Texas, 9.78 per cent on the St. Louis Southwestern of Texas, and 7.80 per cent on the St. Louis, Brownsville & Mexico, an average increase for that month of 8.39 per cent over the revenues which would have resulted if the rates in effect in October had been continued.

Applying this percentage of increase to the average annual revenue from intrastate freight traffic in Texas for the two fiscal years ended June 30, 1916, which was about \$35,144,500, it seems probable that the increased rates resulting from the order in the *Shreveport Case* may have resulted in increased revenue from intrastate freight traffic in Texas of approximately \$3,000,000 per year.

The revenues of the Texas carriers were considerably augmented during some of the months of 1916 through the transportation of troops and government supplies to and from the Texas border.

It is apparent that the increasing rate of taxation, the extraordinary percentage of their revenues paid by these railroads for personal injury claims, loss and damage to property, damage to stock on the right of way, hire of equipment, the many low carload minima, the low rates applied over long hauls on intrastate traffic in Texas, and the low rates applied on less-than-carload traffic for hauls of 50 miles or less, have combined to bring about a state of impoverishment of these railroads, with consequent impairment of their power to meet their common-carrier obligations as to interstate traffic. It may fairly be said that with the extraordinary increase of business which has come to these lines during the year 1917 and with the increased rates which have resulted from the order in the Shreveport case the revenues of the Texas lines are in a more hopeful condition than at any time since the year 1910. They are not in such condition as to warrant serious reductions in rates, except where it may be necessary to correct discriminations or to equalize and distribute transportation burdens.

#### CONCLUSIONS.

##### 1. CLASS RATES.

In certain respects the criticism of the Shreveport scale has merit. The scale should be more closely graded and the fifth-class rates should be 48 per cent rather than 50 per cent of the first-class rates, thus bringing about a more logical relation between these classes.

While there is much in this record to indicate the propriety of a general scheme of class rates which recognizes no difference between conditions in western Texas and those in the rest of the state, a "straight distance scale," as it was called, we can not disregard the evidence as to low density of traffic and sparsity of population in most of this western region and the adverse operating conditions encountered by some of the roads serving it. We are not convinced that the time is at hand when so radical a change can be made in the long-established class-rate system applicable on shipments to and from Texas. The evidence does show that there is no good reason for applying differentials to shipments to and from points on the line of the Fort Worth & Denver City Railway, Amarillo and east, or on the main line of the Panhandle & Santa Fe Railway, Amarillo to Sweetwater, or Higgins to Farwell, inclusive. Interstate differential territory in Texas should be modified to cover all stations on the lines of railways in Texas to which differentials were applied under the

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requirements of our order of July 7, 1916, except points on the two railways as described above. Interstate common-point territory will include all stations in Texas not covered by the above description of differential territory. The accompanying map, showing the principal roads in Texas, is illustrative of the situation. In view of this extension of common-point territory the distance scale will be extended to 500 miles.

Upon consideration of the record now before us we are of opinion and find that our order of July 7, 1916, should be modified, in so far as it prescribes maximum class rates, by substituting therefor the following scale of class rates, for single-line application, which we find will be just and reasonable rates, to be observed as maximum rates for the transportation of property between Shreveport and Texas interstate common-point territory:

Class rates for joint line application as heretofore defined may be made by adding to the rates prescribed in the above table the following amounts:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	8	7	6	5	4	4	4	3	2	2

Class rates for distances of 500 miles or less must not exceed the following, in cents per 100 pounds:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	112	95	78	67	54	58	45	39	33.5	28

Class rates between Shreveport and points in interstate differential territory in Texas as hereinabove modified may exceed the maximum rates above named by the following differentials in cents per 100 pounds, corresponding to the hauls in differential territory:

## 2. CLASSIFICATION.

We are of opinion and find that the transportation of property between Shreveport and Texas points should be governed by the provisions of the current western classification in effect at the time such traffic moves, with such exceptions as are then applied on interstate traffic between points in the state of Texas and points in the contiguous states north and east thereof as stated in southwestern lines' classification exceptions and rules-circular.

### (a) READJUSTMENTS INCIDENT TO CHANGE OF CLASSIFICATION.

A number of articles moving on class rates are rated higher in the western than in the Texas classification. The displacement of the latter on November 1, 1916, had the effect of increasing rates on these articles. Shippers in Texas interested in the rates on some of these commodities urged that the old rates be restored by one of three methods: (1) Restoration of the Texas classification; (2) exceptions to the western classification; (3) special commodity rates.

*Cotton piece goods.*—Most of the cotton piece goods shipped locally in Texas are coarse and cheap, embracing ducks, denims, drills, sack material, canvas, ticking, and other articles of similar character. These were rated fourth class in Texas classification, but are listed under the term of cotton piece goods, which takes first class in the western classification, and consequently now move on materially higher rates. In southern classification these articles are rated fourth class. There are a number of commodity rates on these articles from Texas points to Shreveport and other interstate destinations materially lower than the first-class rates. Under all the circumstances shown to exist we shall require the carriers to establish a special less-than-carload rate not higher than the third-class rates on the following articles between Shreveport and Texas points: "Cotton piece goods, coarse, viz: Back bands, bats and wadding, calico, canton flannel, canvas, corset jeans, cotton plaids, cottonades, cotton jeans, cotton warp, cotton waste, cotton yarn, cotton shirting, cotton wicking, cotton kerseys, cotton rope, crash cotton, domestic checks, stripes and cheviots, cotton duck, cotton twine, denims, drills, domestic gingham, glazed fabrics, osnaburgs, percales, sheeting, silesias, sack material, teasel cloth, ticking, webbing, window Hollands, and shade cloth, plain, uncut, and undecorated."

When shipping ticket or bill of lading plainly designates each article contained in packages to be one of those so listed under cotton piece goods, coarse, the rate so prescribed shall apply thereon. On articles of cotton piece goods not so designated the first-class rate will apply.

*Asphalt plants on their own wheels.*—This description applies to machinery used in the construction of asphalt pavements which is attached to a car and carried thereon. The Texas commission rate was 30 cents per car-mile. The carriers now apply the class E rates on car and contents for movements in Texas. The machinery, if moving alone, would be rated class A. Evidence was adduced as to the movement of such a car said to weigh, with its contents, 170,000 pounds. We are not warranted in finding the class E rating unreasonable.

*Barrels, secondhand, returned for repairing or reworking.*—Under the Texas classification old secondhand barrels and kegs consigned to cooperage plants to be worked over were rated one-half of fourth class, subject to the following estimated weights: Tight whole barrels, 70 pounds; tight half barrels, 44 pounds. Item 826 of southwestern lines' classification exceptions and rules-circular No. 1-G, applicable to interstate traffic between Texas and points in other states, provides for barrels, iron or wooden, secondhand, empty, returned, prepaid or guaranteed, one-half of fourth class.

A similar provision should be applied to the movement between Shreveport and Texas points.

*Corrugated culverts.*—This commodity is rated in the Texas classification fifth class, with 16,000-pound minimum, any length car. In western classification it is rated fourth class, with a minimum of 20,000 pounds for a 36-foot car, subject to rule 6-B. Some evidence was offered at the rehearing for the purpose of showing that the western classification rating and carload minimum are too high. This rating was considered and sustained in *Klauer Mfg. Co. v. A., T. & S. F. Ry. Co.*, 28 I. C. C., 508. In official classification territory culverts are rated fifth class, with a carload minimum of 24,000 pounds, subject to rule 27. The evidence offered here is not convincing that this article is improperly rated in the western classification or that the minimum is too high.

*Wagons, drays, or trucks, common or farm.*—These commodities are rated as third or fourth class in the Texas classification, and one and one-half times first class in western. It is urged that a farm wagon is analogous to such agricultural implements as corn binders, harvesters, and cotton planters, upon which the prevailing rating k. d. in boxes, bundles, and crates is third class in western classification. This rating in the western classification on farm wagons and trucks is applied upon all such articles when shipped into Texas by competitors of Texas dealers. We are not convinced that the rating is improper, and it is clear that if these articles should be rated lower in the Texas than in the western classification undue prejudice to interstate shippers would result.

*Windmills and pump jacks.*—Manufacturers of pump jacks in Texas complain that these machines, which often accompany shipments of windmills and constitute part of the pumping outfit, are not included in the permitted mixture of agricultural implements, which includes windmills, hand pumps, and gasoline engines. No serious objection to the inclusion of pump jacks with shipments of windmills was made by carriers or complainants, and pump jacks should be added to the list of articles under agricultural implements.

*Ginger ale, soda water, beer substitutes, and mineral water, mixed carloads.*—The ratings of these articles in the Texas and western classifications are as follows:

	Texas classification.		Western classification.	
	Class.		Class.	Minimum weight (pounds).
Ginger ale.....	5		5	30,000
Soda water.....	5		5	20,000
Beer substitutes, in barrels.....	C		3	20,000
Mineral water.....	{ Special commodity rate. }		5	30,000

The carriers have published rates equivalent to the present class C rates on beer substitutes and cereal beverages, with minimum of 30,000 pounds. The establishment of rates on mixed carloads of these articles was urged without meeting serious objection. We see no good reason why a commodity rate equivalent to the class C rate should not be established on the following mixture of articles in carloads, subject to a carload minimum of 24,000 pounds: "Beverages, flavored or phosphated, not including extracts, sirups, or alcoholic liquors, in packages, described in western classification as beer substitutes or near beers, and cereal beverages, carbonated, nonalcoholic, in wood or in glass, packed, in straight or mixed carloads." Mineral or spring water may be included in mixed carloads with the articles above named at the same rate.

*Sewer segment blocks.*—This article seems fairly analogous to hollow building tile and subject to the same transportation conditions. Its inclusion under the heading of fire brick, which includes hollow building tile, is urged and we are of opinion that this should be done.

*Miscellaneous articles.*—Some evidence was also introduced regarding rates on common chairs, secondhand automobiles, secondhand machinery, sheet-iron tanks, cisterns, furniture, sewer pipe, and certain other articles, but in no case was it convincing as to the necessity for or propriety of any different ratings on such articles.

There are many items in defendants' tariffs framed to cover the movement of various articles upon which ratings have been increased by the change from the Texas to the western classification. In many such cases the carriers have published rates for application between Shreveport and Texas points, and locally in Texas, which are materially lower than the maximum rates thus permitted by our order. These articles include furniture, vinegar, sewer pipe, cement plaster, box and crate material, and many other commodities. The publication of the ratings and rates by the carriers on these and other items not named herein has done much to bring about a more satisfactory and reasonable system of rates in this territory, and nothing in our report or order should be so construed as to warrant the carriers in changing any of such rates except for the purpose of adaptation to the new and revised class rates hereinbefore prescribed.

(b) READJUSTMENT INCIDENT TO CHANGE FROM ONE LINE TO JOINT LINE RATE.

*Sand and gravel rates from Texand, Tex.*—There are three gravel pits at or near Waco, Tex. Two are within the switching limits of Waco, and one is at Texand, a point on the San Antonio & Aransas Pass Railway about 4 miles from the Waco freight station and outside the switching limits. The two gravel pits within the switching district take the Waco rates. Complaint was made to the Texas com-

mission respecting the rates on sand and gravel from Texand to points on railways not reached by the San Antonio & Aransas Pass Railway and concerning switching charges from Texand to points in Waco. After hearing and investigation the Texas commission entered an order, effective June 1, 1916, which appears in the margin.<sup>1</sup>

On rehearing the representative of sand and gravel shippers at Texand showed that our order of July 7, 1916, had the effect of disturbing the relation between the intrastate rates from the Texand pit and the pits within the switching limits of Waco, and asked that this relationship be restored. The representative of the complainant testified that such restoration in his judgment would not unduly prejudice Shreveport. The carriers have expressed their willingness to restore the former relation. Nothing in our report or order should be so construed as to warrant the carriers in disregarding this order of the Texas commission, respecting the switching rates from Texand to points in Waco and the relationship between the rates on sand and gravel from Texand and points within the switching limits of Waco.

### 3. COMMODITY RATES.

Upon consideration of the record now before us we are of opinion and find that our order of July 7, 1916, should be modified, in so far as it prescribes commodity rates and carload minima for movements between Shreveport and points in Texas, by substituting therefor the following maximum rates and carload minima which we find will be just and reasonable for movements of the commodities hereinafter named in carloads between Shreveport and points in Texas:

(1) Horses and mules: Carload minima for cars 36 feet 7 inches and over 34 feet in length, inside measurement 22,000 pounds; for cars 40 feet and over 36 feet 7 inches in length, inside measurement, 24,500 pounds. When cars exceed 40 feet in length, 2½ per cent may be added to the minimum for 40-foot cars for each foot or fraction thereof in excess of 40 feet.

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<sup>1</sup> (b) Sand and gravel in carloads from Texand to locations on San Antonio & Aransas Pass Railway in Waco \$5 per car, when deliveries in Waco or on tracks of other lines, regular switching charges, for the distances handled by such other lines, shall be added to the charge of \$5. This rate not to be used as a division or basis for division on shipments going beyond Waco.

(c) On sand and gravel in carloads from Texand to points in Texas (other than Waco), the rate to be applied shall be that applicable, to the same commodity, from Waco to the same point of destination; except that where the point of destination is a non-competitive point, the rate to be applied from Texand shall be the Waco rate plus \$1 per car.

*Horses and mules.*

Miles.	Rates.		Miles.	Rates.	
	No. 1.	No. 2.		No. 1.	No. 2.
10 and less.....	9	11½	200 and over 175.....	22	24
15 and over 10.....	9½	12	225 and over 200.....	23	25
20 and over 15.....	10	12½	250 and over 225.....	24	26
25 and over 20.....	10½	13	275 and over 250.....	25	27
30 and over 25.....	11	13½	300 and over 275.....	26	28
35 and over 30.....	11½	14	325 and over 300.....	27	29
40 and over 35.....	12	14½	350 and over 325.....	28	30
45 and over 40.....	12½	15	375 and over 350.....	29	31
50 and over 45.....	13	15½	400 and over 375.....	30	32
60 and over 50.....	14	16½	450 and over 400.....	31½	33
70 and over 60.....	15	17½	500 and over 450.....	33	34
80 and over 70.....	16	18½	550 and over 500.....	34½	35
90 and over 80.....	17	19½	600 and over 550.....	36	36
100 and over 90.....	18	20	650 and over 600.....	37½	37½
125 and over 100.....	19	21	700 and over 650.....	39	39
150 and over 125.....	20	22	750 and over 700.....	40½	40½
175 and over 150.....	21	23	Over 750.....	42	42

NOTE.—The rates in column No. 1 are for single-line application; in column No. 2 for joint line application.

(2) Sand and gravel: Carload minimum, 50,000 pounds, or marked capacity of the car if that be less than 50,000 pounds.

*Sand and gravel.*

[Rates in cents per ton of 2,000 pounds.]

Miles.	Rates.		Miles.	Rates.	
	No. 1.	No. 2.		No. 1.	No. 2.
10 and less.....	25	38	150 and over 140.....	90	103
20 and over 10.....	30	43	175 and over 150.....	98	111
30 and over 20.....	35	48	200 and over 175.....	106	119
40 and over 30.....	40	53	225 and over 200.....	114	127
50 and over 40.....	45	58	250 and over 225.....	122	135
60 and over 50.....	50	63	275 and over 250.....	130	143
70 and over 60.....	55	68	300 and over 275.....	138	151
80 and over 70.....	60	73	350 and over 300.....	154	167
90 and over 80.....	65	78	400 and over 350.....	170	180
100 and over 90.....	70	83	450 and over 400.....	186	192
110 and over 100.....	74	87	500 and over 450.....	202	202
120 and over 110.....	78	91	550 and over 500.....	218	218
130 and over 120.....	82	95	600 and over 550.....	234	234
140 and over 130.....	86	99	Over 600.....	250	250

NOTE.—The rates in column No. 1 are for single-line application; in column No. 2 for joint line application.

(3) Common brick: Carload minimum, 50,000 pounds, or marked capacity of the car if that be less than 50,000 pounds.

*Common brick.*

[Rates in cents per ton of 2,000 pounds.]

Miles.	Rates		Miles.	Rates	
	No. 1.	No. 2.		No. 1.	No. 2.
10 and less.....	40	55	175 and over 150.....	180	154
20 and over 10.....	46	61	200 and over 175.....	184	160
30 and over 20.....	52	67	225 and over 200.....	188	170
40 and over 30.....	58	73	250 and over 225.....	192	180
50 and over 40.....	64	79	275 and over 250.....	196	190
60 and over 50.....	70	85	300 and over 275.....	200	200
70 and over 60.....	76	91	350 and over 300.....	214	220
80 and over 70.....	82	97	400 and over 350.....	228	230
90 and over 80.....	88	103	450 and over 400.....	250	250
100 and over 90.....	94	109	500 and over 450.....	266	261
110 and over 100.....	100	115	550 and over 500.....	282	277
120 and over 110.....	106	121	600 and over 550.....	298	291
130 and over 120.....	112	127	650 and over 600.....	314	306
140 and over 130.....	118	133	700 and over 650.....	330	320
150 and over 140.....	124	139	Over 700.....	340	340

NOTE.—The rates in column No. 1 are for single-line application; in column No. 2 for joint line application.

(4) Fire brick: Carload minimum, 40,000 pounds.

*Fire brick.*

[Rates in cents per ton of 2,000 pounds.]

NOTE.—The rates in column No. 1 are for single-line application, in column No. 2 for joint line application.

(5) Junk: Carload minimum, 80,000 pounds.

Junk.

[Rates in cents per ton of 2,000 pounds.]

Miles.	Rates.		Miles.	Rates.	
	No. 1.	No. 2.		No. 1.	No. 2.
10 and less.....	60	80	175 and over 150.....	235	255
20 and over 10.....	71	91	200 and over 175.....	260	280
30 and over 20.....	83	103	225 and over 200.....	275	295
40 and over 30.....	93	113	250 and over 225.....	290	310
50 and over 40.....	104	124	275 and over 250.....	305	325
60 and over 50.....	115	135	300 and over 275.....	320	340
70 and over 60.....	126	146	350 and over 300.....	335	355
80 and over 70.....	137	157	400 and over 350.....	350	365
90 and over 80.....	148	168	450 and over 400.....	365	375
100 and over 90.....	159	179	500 and over 450.....	380	395
110 and over 100.....	170	190	550 and over 500.....	395	405
120 and over 110.....	180	200	600 and over 550.....	400	400
130 and over 120.....	190	210	650 and over 600.....	400	400
140 and over 130.....	200	220	700 and over 650.....	400	400
150 and over 140.....	210	230	Over 700.....	400	400

NOTE.—The rates in column No. 1 are for single-line application; in column No. 2 for joint line application.

(6) Machinery (gin and irrigation): Carload minimum, 24,000 pounds.

Rates to or from points in interstate common-point territory in Texas, for single-line application, class A rates, subject to a maximum of 45 cents per 100 pounds; for joint line application, may exceed those here named for single-line application by 4 cents per 100 pounds, subject to the same maximum. Rates to or from points in interstate differential territory in Texas may exceed said maximum by the class A differentials hereinabove prescribed.

(7) Glass fruit jars and bottles: Carload minimum, 30,000 pounds.

Glass fruit jars and bottles.

Miles.	Rates.		Miles.	Rates.	
	No. 1.	No. 2.		No. 1.	No. 2.
10 or less.....	6	8	175 and over 150.....	18	20
20 and over 10.....	7	9	200 and over 175.....	19	21
30 and over 20.....	7.5	9.5	225 and over 200.....	20	22
40 and over 30.....	8	10	250 and over 225.....	21	23
50 and over 40.....	9	11	275 and over 250.....	22	24
60 and over 50.....	10	12	300 and over 275.....	23	25
70 and over 60.....	10.5	12.5	350 and over 300.....	25	26
80 and over 70.....	11	13	400 and over 350.....	27	27
90 and over 80.....	12	14	450 and over 400.....	29	29
100 and over 90.....	13	15	500 and over 450.....	31	31
110 and over 100.....	13.5	15.5	550 and over 500.....	32.5	32.5
120 and over 110.....	14	16	600 and over 550.....	34	34
130 and over 120.....	15	17	650 and over 600.....	35	35
140 and over 130.....	16	18	700 and over 650.....	36	36
150 and over 140.....	16.5	18.5	Over 700.....	36	36

NOTE.—The rates in column No. 1 are for single-line application; in column No. 2 for joint line application

(8) Iron and steel articles: Carload minimum, 30,000 pounds.

Rates to or from points in interstate common-point territory in Texas, for single-line application, 60 per cent of fifth-class rates, subject to a maximum of 32 cents per 100 pounds; for joint line application, may exceed those here named for single-line application by 2 cents per 100 pounds, subject to the same maximum. Rates to or from points in interstate differential territory in Texas may exceed said maximum by 60 per cent of the fifth-class differentials hereinabove prescribed.

(9) Potatoes and turnips: Carload minimum, 26,000 pounds.

Rates to or from points in said interstate common-point territory for single-line application, 85 per cent of class C rates, subject to a maximum of 25 cents per 100 pounds; for joint line application, may exceed those here named for single-line application by 2 cents per 100 pounds, subject to the same maximum. Rates to or from points in said interstate differential territory may exceed said maximum by 85 per cent of the class C differentials hereinabove prescribed.

(10) Fruits, melons, and vegetables: Carload minimum, 24,000 pounds.

Rates to or from points in said interstate common-point territory, for single-line application, class C rates up to and including 80 miles, or, where the haul exceeds 80 miles, 2 cents per 100 pounds higher than the rates above prescribed on potatoes and turnips, subject to a maximum of 27 cents per 100 pounds; for joint line application, may exceed those here named for single-line application by 2 cents per 100 pounds, subject to the same maximum. Rates to or from points in said interstate differential territory may exceed said maximum by the class C differentials hereinabove prescribed.

(11) Empty barrels and kegs: Carload minima:

Length of car in feet, inside measurement.	Tight barrels and kegs.	Slack barrels and kegs.
36 and less.....	11,200	10,000
40 and over 36.....	14,000	11,000
45 and over 40.....	16,100	12,000
50 and over 45.....	18,500	14,000

Empty barrels and kegs.

Miles.	Rates.		Miles.	Rates.	
	No. 1.	No. 2.		No. 1.	No. 2.
10 and less.....	5	7	175 and over 150.....	14½	16½
20 and over 10.....	6	8	200 and over 175.....	15	17
30 and over 20.....	7	9	225 and over 200.....	15½	17½
40 and over 30.....	8	10	250 and over 225.....	16	18
50 and over 40.....	9	11	275 and over 250.....	16½	18½
60 and over 50.....	10	12	300 and over 275.....	17	19
70 and over 60.....	11	13	350 and over 300.....	18	20
80 and over 70.....	11½	13½	400 and over 350.....	19	21
90 and over 80.....	12	14	450 and over 400.....	20	22
100 and over 90.....	12½	14½	500 and over 450.....	21	23
110 and over 100.....	12½	14½	550 and over 500.....	22	23½
120 and over 110.....	13	15	600 and over 550.....	23	24
130 and over 120.....	13½	15½	650 and over 600.....	24	24½
140 and over 130.....	13½	15½	700 and over 650.....	25	25
150 and over 140.....	14	16	Over 700.....	25	25

NOTE.—The rates in column No. 1 are for single-line application; in column No. 2 for joint line application.

(12) Blackstrap molasses: Carload minimum, 36,000 pounds.

Rates to or from points in said interstate common-point territory for single-line application:

Miles.	Rate in cents.	Miles.	Rate in cents.
10 and less.....	4	120 and over 110.....	12
20 and over 10.....	5	130 and over 120.....	12.5
30 and over 20.....	6	140 and over 130.....	13
40 and over 30.....	7	150 and over 140.....	13
50 and over 40.....	8	160 and over 150.....	13.5
60 and over 50.....	9	200 and over 160.....	14.5
70 and over 60.....	10	250 and over 200.....	15.5
80 and over 70.....	10	300 and over 250.....	16.5
90 and over 80.....	11	350 and over 300.....	17.5
100 and over 90.....	11	400 and over 350.....	18.5
110 and over 100.....	12	Over 400.....	19

Rates for joint line application may exceed those here named for single-line application by 1 cent per 100 pounds, subject to the same maximum of 19 cents per 100 pounds.

Rates to or from points in said interstate differential territory may exceed said maximum by 50 per cent of the fifth-class differentials hereinabove prescribed.

(13) Cotton seed and products: Carload minima,

Cotton seed, straight carloads, 30,000 pounds; cottonseed cake and meal, straight or mixed carloads, 36,000 pounds; cottonseed hulls and articles taking same rates, straight carloads, 30,000 pounds.

Rates to or from points in said interstate common-point territory, for single-line application:

Miles.	Cotton seed, cotton-seed cake and meal.	Cotton-seed hulls and bran, rice bran, and rice hulls.	Miles.	Cotton seed, cotton-seed cake and meal.	Cotton-seed hulls and bran, rice bran, and rice hulls.
10 and less.....	5	4.5	140 and over 120.....	12	8.5
20 and over 10.....	6	4.5	160 and over 140.....	13	9
30 and over 20.....	6.5	5	180 and over 160.....	14	9.5
40 and over 30.....	7	5	200 and over 180.....	15	10
50 and over 40.....	7.5	5	240 and over 200.....	16.5	11
60 and over 50.....	8	5.5	280 and over 240.....	17.5	11.5
70 and over 60.....	8.5	6	300 and over 280.....	18	12
80 and over 70.....	9	6.5	320 and over 300.....	19	12.5
90 and over 80.....	9.5	7	340 and over 320.....	20	13
100 and over 90.....	10	7.5	360 and over 340.....	21	13
120 and over 100.....	11	8	Over 360.....	21	13

Rates for joint line application may exceed those here named for single-line application by 1½ cents per 100 pounds, subject to the same maxima.

Rates to or from points in said interstate differential territory may exceed said maxima by the following differentials:

Miles.	Cotton seed.	Cottonseed cake and meal.	Cottonseed hulls and bran, rice bran and rice hulls.
50 and less.....	1	1	1
75 and over 50.....	1.5	2	1.5
100 and over 75.....	2	3	2
150 and over 100.....	3	4	3
Over 150.....	4	5	4

On mixed carloads of cottonseed hulls and cottonseed cake and meal the highest rate applicable on any commodity included in the shipment shall apply, subject to a minimum weight of 86,000 pounds.

(14) Unshelled peanuts, flour, wheat, corn, hay, and articles taking the same rates, respectively: Carload minima,

	Pounds.
On corn and articles taking corn rates, except as shown below.....	86, 000
On ear corn, snapped or in the shuck; also on the following articles in the head: Feterita, Kafir corn, millo maize, and Egyptian wheat; in straight or mixed carloads:	
When loaded to the full visible capacity of cars smaller than 36 feet in length and 8 feet high, inside measurement.....	24, 000
When loaded in cars 36 feet in length and 8 feet high or larger, inside measurement.....	30, 000
On oats, also oats and barley blended.....	30, 000
On millo maize, Kafir corn, and feterita.....	36, 000
On wheat and articles taking wheat rates, except as shown below.....	36, 000
On grain products.....	30, 000
On peanuts.....	30, 000
On seeds .....	30, 000

On hay and articles taking hay rates:	Pounds.
Cars 32 feet and less in length, inside measurement.....	14,000
Cars 34 feet and over 32 feet in length, inside measurement.....	15,000
Cars 36 feet and over 34 feet in length, inside measurement.....	16,000
Cars over 36 feet in length, inside measurement.....	17,000

Rates to or from points in said interstate common-point territory, for single-line application,

Miles.	Unshelled peanuts.	Flour and articles taking same rates.	Wheat and articles taking same rates.	Corn and articles taking same rates.	Hay and articles taking same rates.
10 and less.....	6	6	5	4	5
20 and over 10.....	8	8	6	5	6
30 and over 20.....	10	10	7	6	7
40 and over 30.....	11	11	8	6.5	8
50 and over 40.....	12	12	9	7	9
60 and over 50.....	12.5	12.5	9.5	7.5	9.5
70 and over 60.....	13	13	10	8	10
80 and over 70.....	13.5	13.5	10.5	8.5	10.5
90 and over 80.....	14	14	11	9	11
100 and over 90.....	14.5	14.5	11.5	9.5	11.5
110 and over 100.....	15	15	12	10	12
120 and over 110.....	15.5	15.5	12.5	10.5	12.5
130 and over 120.....	16	16	13	11	13
140 and over 130.....	16.5	16.5	13.5	11.5	13.5
150 and over 140.....	17	17	14	12	14
200 and over 150.....	19.5	19.5	16.5	14.5	16.5
250 and over 200.....	22	22	19	17	19
Over 250.....	22	22	19	17	19

Rates for joint line application may exceed those here named for single-line application by 2 cents per 100 pounds, subject to the same maxima.

Rates to or from points in said interstate differential territory may exceed said maxima by the following differentials:

For hauls in differential territory, miles.	Unshelled peanuts.	Flour and articles taking same rates.	Wheat and articles taking same rates.	Corn and articles taking same rates.	Hay and articles taking same rates.
25 and less.....	1	1	1	1	1
50 and over 25.....	2.5	2.5	2	1	1.5
75 and over 50.....	3.75	3.75	3	2	2
100 and over 75.....	5	5	4	2	3
150 and over 100.....	6.25	6.25	5	3	4
200 and over 150.....	7.5	7.5	5	4	4.5
25 and over 200.....	8	8	6	5	5
300 and over 250.....	9	9	6	5	5.5
Over 300.....	10	10	7.5	5	6

OTHER COMMODITIES.

Agricultural implements (except hand implements); bagging and ties; cans, cases, and pails (tin); dry goods; window glass; oil (refined petroleum); iron and steel pipe; and other commodities taking the same rates as shown in the appendix:

Rates for single-line application between Shreveport and Texas interstate common points not to exceed the reasonable rates hereinbefore prescribed as maxima for like distances for the classes to 48 I. C. C.

which the respective articles belong, subject to the following maxima in cents per 100 pounds:

	Cents.
Agricultural implements (except hand implements)-----	45
Bagging and ties-----	24
Cans, cases, and pails (tin)-----	48
Dry goods-----	55
Window glass-----	24
Oil (refined petroleum)-----	28
Iron and steel pipe-----	24

Rates for joint line application may exceed those here named for single-line application by the class differentials hereinbefore prescribed for the classes under which the articles are rated, subject to the same maxima.

Rates to or from points in interstate differential territory may exceed said maxima by the class differentials hereinbefore prescribed for the classes under which the articles are rated corresponding to hauls in said differential territory.

The reasonable carload minima to be applied on the commodities listed under "other commodities," where not specified in the appendix, are those provided in the current western classification in effect at the time such traffic moves, with such exceptions as are then applied on traffic between Texas cities and points in contiguous states north and east thereof as stated in southwestern lines' classification exceptions and rules-circular.

The rates and carload minima prescribed for the transportation of the commodities named in this report will also apply, respectively, to the transportation of the commodities named in the appendix.

Here, as before, our report and order contemplate the establishment of through routes and joint rates on the bases prescribed via all practicable routes.

#### 4. POINTS ON OR NEAR THE GULF OF MEXICO.

Some evidence was introduced by Texas interveners respecting rates to and from Galveston as compared with Houston. This situation, and others somewhat similar, are described in our report of July 7, 1916, at pages 124 and 125. The relationship, which was authorized and required by the Texas commission and which accorded Galveston somewhat lower rates for certain distances and higher rates for other distances than Houston, is not objected to by complainant and has not been shown to result in undue prejudice to Shreveport. The differential basis for rates to and from Galveston is of long standing, and in the absence of evidence of its unduly prejudicial effect upon the commerce of Shreveport we are without authority under the issues before us to disturb it. Nothing in this report or our order hereunder shall be construed as requiring any change in the differential bases for class or commodity rates estab-

lished in items 1015, 1020, 1025, 1030, 1465, 1467, and 1469 of Texas Lines Tariff No. 2-B, I. C. C. No. 33, for application as provided in those items, respectively. The use of different-classification rules or lower classification ratings or carload minima on this traffic than are contemporaneously applied on traffic between Shreveport and Texas points would be unduly prejudicial to Shreveport.

The Texas commission has authorized lower rates between certain points along or near the Gulf of Mexico than are ordinarily applied over like distances in other parts of the state. Class rates between these points are shown in item 1235 of the tariff above named. No complaint of undue prejudice to Shreveport is made as to these rates. Nothing in this report or order should be construed as requiring any change in the class or commodity rates between these points.

#### 5. UNDUE PREJUDICE TO SHREVEPORT.

This subject was discussed at pages 118 to 123 of our report of July 7, 1916, and an excerpt therefrom is quoted at page 316, ante.

Our jurisdiction to make the order now in effect is denied by the interveners, and it seems proper, in the interests of clearness, to analyze the situation presented.

Under the commerce clause of the constitution the Congress has full and complete power to regulate the operations of carriers engaged in interstate commerce. This power may be delegated in an appropriate manner to a body designated by the Congress, as has been done in the act to regulate commerce to the extent there set forth.

That act imposes upon the carriers subject to its provisions, including the defendants, the duty of establishing "through routes and just and reasonable rates applicable thereto." Among other things "every unjust and unreasonable charge" for any service rendered in the transportation of property "is prohibited and declared to be unlawful"; unjust discrimination is "prohibited and declared to be unlawful"; and it is unlawful to "subject any particular person, company, firm, corporation, or locality, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

The Commission created by the act is "authorized and required to execute the provisions of this act," and "any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier," may complain "of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof."

Complaints have been filed in the usual manner, hearings have been held, and reports have been rendered, as recited earlier in this  
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report. In each case it was shown conclusively that the Texas carriers were subjecting Shreveport and Shreveport shippers to undue and unreasonable prejudice and disadvantage in violation of section 3 of the act.

In our report and order of July 7, 1916, we prescribed certain reasonable class and commodity rates to be thereafter observed as maxima between Shreveport and Texas points. In order to remove the undue prejudice against Shreveport the carriers were forbidden to apply higher class rates or rates on designated commodities to the transportation of property between Shreveport and points in Texas than they contemporaneously applied to the transportation of like property for like distances between points in Texas, except in certain instances where the rates in Texas had been depressed by reason of water competition; and they were further required to maintain and apply to the transportation of property between points in Texas the provisions of the current western classification in effect at the time such traffic moved.

The interveners insist that our order goes beyond the necessities of the case. They concede our authority to establish just and reasonable maximum rates between Shreveport and Texas points, but deny our power to enter an order which will displace the Texas rates or classification provisions, "except within the territory that is substantially tributary to Shreveport." As stated by counsel, "We are not challenging the jurisdiction of the Commission where the facts show a sufficient movement or sufficient potential movement to give rise to an undue discrimination."

The theory is advanced that, as the commerce of Shreveport is relatively small compared with that of the entire state of Texas, any undue prejudice against Shreveport should be removed by extending to Shreveport the classification and rate basis applicable in Texas. This method was discussed in our report of July 7, 1916, at page 121, and need not be further considered. We do not deem the Texas rates and classification to be proper standards for the removal of the undue prejudice.

The principal objections to the validity of our order of July 7, 1916, are (a) that as Shreveport is slightly over 20 miles from the nearest town in Texas we have no power to affect rates in Texas for distances of 20 miles or less; (b) that Shreveport does not ship all articles to all points in Texas; (c) that not all articles embraced in the classification are shipped to or from Shreveport; and (d) that the provisions of the Texas classification can not, in many instances, discriminate against Shreveport.

(a) We do not understand that our authority to prescribe complete distance scales to be observed as maxima between Shreveport

and Texas is seriously challenged. It is of the essence of distance scales that they should be properly graded. The rates for 10 miles, 50 miles, 100 miles, or other distances should bear the proper relation to one another and should not be disproportionately high or low. The obvious and inevitable consequence of use by a carrier of different scales for the same distance from competing points to a common market, transportation conditions being similar, would be to subject to undue prejudice the point taking the higher rate. The undue prejudice is equally inevitable where the distances are not the same if different scales are used, as the rates will not represent the relative difference in service. This is shown in the following example:

Shreveport is slightly over 20 miles from Waskom, Tex. The class rates prescribed by us for distances of 30 miles and over 20 are:

Classes-----	1	2	3	4	5	A	B	C	D	E
Cents -----	30	25	21	18	14	16	12	10	9	7

Karnack, Tex., is 15 miles from Waskom, and the following class rates were applicable for that distance under the Texas commission scale:

Classes-----	1	2	3	4	5	A	B	C	D	E
Cents -----	15	13	12	10	7	8	6	5	5	4

Shreveport was entitled to complete relief from the undue prejudice found to exist, and this could not be given without prescribing reasonable maximum rates which would insure relative rate equality, distance considered, between Shreveport and the Texas points.

Moreover, the record clearly indicates that the maintenance of the Texas commission class rates for short distances would result in an undue burden upon interstate commerce.

(b) and (c) These objections are in essence the same, that is, that there can be no undue prejudice until shipments of any given commodity have moved between particular points. Carried to its logical conclusion it would amount to a contention that, having established reasonable maximum class rates between Shreveport and Texas points, we could require the carriers to remove the undue prejudice resulting from lower rates for like distance in Texas on classes 1, 3, and A, because to point X, for example, articles had moved from Shreveport on those class rates, but could not require such removal in respect of other classes for like distances, because articles had not moved under these other class rates between Shreveport and X. Like contentions could be made based on ascertained movements under classes 2, 4, and B to point Y for a different distance. The statement of this proposition should suffice to demonstrate the impossibility of making rates upon any such system. Moreover, carrying it a little further, under such a doctrine our power to remove

undue prejudice would vary from month to month, from class to class, and from distance to distance, as the shipments to and from Shreveport fluctuated.

It is unnecessary to pursue this subject. Counsel for the interveners stated, at the argument, as quoted above, that they did not challenge our jurisdiction "where the facts show a sufficient movement or sufficient potential movement to give rise to an undue discrimination"; and that he did not "assert the proposition that you ought to pick out each town to which there has been a movement or from which there has been a movement."

The contention now is that we should limit the effect of our order requiring the carriers to remove undue prejudice to "the territory that is substantially tributary to Shreveport." Apparently this is to be the territory adjacent to Shreveport to and from which the bulk of the Shreveport traffic moved. The exact boundaries of this territory are not given. Upon being asked, "How in your own mind can you define the territory that is substantially tributary to Shreveport?" counsel replied, "Well, I do not think it can be definite, certainly."

This contention attributes to us the power and right to determine where certain cities or persons must transact their business, a power and a right which, as we have always conceived, are not lodged either with the carriers or with us. There is nothing in the act to indicate that we may thus limit the trade of any community or shipper, and we have consistently denied the right of carriers to assign territory to one city or another.

The pertinent portion of section 3 of the act is set forth in the margin.<sup>1</sup> The broad language of the section is particularly noteworthy. In this connection it is significant that, although the act has been amended and revised many times during the past 30 years, this section has remained unchanged since its enactment in 1887. As was said by the Supreme Court, when this proceeding was before it in *Houston & Texas Ry. v. United States*, *supra*, at page 356:

This language is certainly sweeping enough to embrace all the discriminations of the sort described which it was within the power of Congress to condemn. There is no exception or qualification with respect to an unreasonable discrimination against interstate traffic produced by the relation of intrastate to interstate rates as maintained by the carrier. It is apparent from the legislative history of the act that the evil of discrimination was the principal thing aimed at, and there is no basis for the contention that Congress intended to exempt any discriminatory action or practice of interstate carriers

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<sup>1</sup> That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

affecting interstate commerce which it had authority to reach. The purpose of the measure was thus emphatically stated in the elaborate report of the Senate Committee on Interstate Commerce which accompanied it: "The provisions of the bill are based upon the theory that the paramount evil chargeable against the operation of the transportation system of the United States as now conducted is unjust discrimination between persons, places, commodities, or particular descriptions of traffic. The underlying purpose and aim of the measure is the prevention of these discriminations \* \* \*." (Senate Report No. 46, 49th Cong., 1st sess., p. 215.)

Apparently underlying the argument of the interveners is the thought that there must be a direct and substantial commercial competition in a common market between merchants at two points in order to come within the provisions of section 3. This is the situation most easily susceptible of proof and most frequently brought to our attention. But it by no means follows that these are the only instances of undue prejudice that are prohibited. Without attempting to enumerate the various classes of cases it may be said that the section is broad enough to include any undue prejudice to one description of traffic, including interstate commerce, and undue preference of another description of traffic, that interferes with the free movement of such interstate commerce, whatever form the discrimination may take.

The Supreme Court said in *Houston & Texas Ry. v. United States*, *supra*, at pages 350 and 351:

Interstate trade was not left to be destroyed or impeded by the rivalries of local governments. The purpose was to make impossible the recurrence of the evils which had overwhelmed the Confederation and to provide the necessary basis of national unity by insuring "uniformity of regulation against conflicting and discriminating state legislation." \* \* \*

Congress is empowered to regulate—that is, to provide the law for the government of interstate commerce; to enact "all appropriate legislation" for its "protection and advancement" (*The Daniel Ball*, 10 Wall., 557, 564); to adopt measures to "promote its growth and insure its safety" (*County of Mobile v. Kimball*, *supra*); "to foster, protect, control, and restrain" (*Second Employers' Liability Cases*, *supra*). Its authority, extending to these interstate carriers as instruments of interstate commerce, necessarily embraces the right to control their operations in all matters having such a close and substantial relation to interstate traffic that the control is essential or appropriate to the security of that traffic, to the efficiency of the interstate service, and to the maintenance of conditions under which interstate commerce may be conducted upon fair terms and without molestation or hindrance. As it is competent for Congress to legislate to these ends, unquestionably it may seek their attainment by requiring that the agencies of interstate commerce shall not be used in such manner as to cripple, retard, or destroy it.

These carriers, "common instrumentalities of interstate and intrastate commercial intercourse," have for many years maintained in Texas a system of rates, both class and commodity, under which, with exceptions unimportant to this case, all points, large or small,

local or junction points, regardless of density of traffic and other transportation conditions, were placed upon a parity as to rates, subject, as explained above, to certain differentials for movements in differential territory. That is, each town was accorded a full line of class and commodity rates to and from all points in the state without regard to whether or not shipments had in the past actually moved.

These same carriers contemporaneously maintained an entirely different system of rates between Shreveport and points in Texas. With few exceptions, these latter rates were higher, distance considered, than those in Texas. This situation has been before us several times as new complaints have been filed, and in each instance we have found upon the evidence adduced that the situation resulted in undue prejudice to Shreveport.

While we must be guided by established principles of law it is well settled that what constitutes undue and unreasonable prejudice and disadvantage is a question of fact and not of law. *Texas & Pac. Ry. v. United States*, 162 U. S., 197, 219; *Int. Com. Com. v. Alabama Midland R. R.*, 168 U. S., 144, 170; *W. U. Tel. Co. v. Call Pub. Co.*, 181 U. S., 92, 103; *Int. Com. Com. v. D., L. & W. R. R.*, 220 U. S., 235, 255; *United States v. L. & N. R. R.*, 235 U. S., 314; *Pennsylvania Company v. United States*, 236 U. S., 351, 361. The formulation of conclusions on such questions of fact necessarily involves the consideration of evidence, often conflicting, from which, as in any case of the sort, different minds might draw different conclusions. That this Commission has jurisdiction to consider such questions was decided in the *Minnesota Rate Cases*, 230 U. S., 352, in which it was said, at page 419:

the question whether the carrier, in such a case, was giving an undue or unreasonable preference or advantage to one locality as against another, or subjecting any locality to an undue or unreasonable prejudice or disadvantage, would be primarily for the investigation and determination of the Interstate Commerce Commission and not for the courts.

The request that the portion of our order requiring the removal of undue prejudice be limited to some portion of eastern Texas proceeds upon the assumption that Shreveport has a right to protection in this portion of the state, where its shipments are of considerable volume, but is not entitled to such protection where such shipments are less extensive. In other words, the distinction attempted to be drawn turns upon the amount of traffic affected and not the effect on traffic. No doubt appears to exist regarding Shreveport's right, as compared with Texarkana, for example, to an equality of rates, distance considered, to Dallas, Fort Worth, Waco, Beaumont, Houston, and many other points. The distances to San Antonio, Sweetwater, Amarillo, or El Paso may be greater than to the other points named, but the right to an equality of rates is no less

clear. In *Chamber of Commerce, Ashburn, Ga., v. G., S. & F. Ry. Co.*, 23 I. C. C., 140, 147, we said:

The record does not disclose the amount of business that Ashburn could do in that radius if it had an equitable rate adjustment, but we are not prepared to say that because it would be comparatively small, Ashburn may be wholly excluded from opportunity to get what it can.

And in *Class Rates Between Stations in Louisiana*, 33 I. C. C., 302, 304, we said:

Whether such interstate traffic is large or small in extent is immaterial, as in either event it is entitled to the full protection of the law.

The justification for according all points in Texas a full line of class and commodity rates throughout the entire state of Texas and restricting the equalization of Shreveport to a comparatively small portion of the state is not manifest to us. As said in *Kaufman Commercial Club v. T. & N. O. R. R. Co.*, 31 I. C. C., 167, 171:

A just equality of opportunity for shipper and locality is required by the law.

That the adjustment proposed by interveners would not accord to Shreveport and its merchants "a just equality of opportunity" in freight rates has, in our opinion, been conclusively shown. Without going into further detail, we quote from *Santa Rosa Traffic Asso. v. Southern Pacific Co.*, 29 I. C. C., 65, 66, where we said:

Most of the testimony offered on behalf of San Jose and Santa Clara tends to show that both those points owe their development to rates they have enjoyed to the disadvantage of other localities not dissimilarly situated. Thus it is shown that industries have been established at the favored points solely by reason of these rates, whence the inference is inevitable that the denial of such rates to other points has resulted in their being avoided by investors in the location of industrial enterprises. A situation of discrimination is thus disclosed.

This case was followed in *Transcontinental Commodity Rates*, 32 I. C. C., 449, 454. We there said:

There can be no question about the great commercial advantages which accrue to the town having these rates. In the contest for new factories and industries looking for locations on the Pacific coast, the town with these rates has an advantage which can not be overcome by its rivals not blessed with such rates. In one sense the competition between towns for new factories and industries is more important than the competition between factories and industries already in those towns for trade. New factories mean more workers, more money, more houses, and more people in general. After all, the struggle between these Pacific coast cities and towns is essentially one for population. The record in these cases shows that although the fact that the railroads have published tariffs eliminating San Jose, Santa Clara, and Marysville from the list of terminal points has been known only a few months, already these three points have felt the disadvantage of the possibility of ultimately losing such rates. San Jose, for example, has been unable to secure certain new industries because of the uncertainty of its terminal rate position.

In this case, as in the *Santa Rosa Case*, it is urged that competition "for trade" must exist before any unjust discrimination can result. This contention must be rejected for the reasons stated in the *Santa Rosa Case*. It is a foregone conclusion that competition between jobbing houses and factories for trade can not exist without jobbing houses and factories, and if a certain adjustment of freight rates prevents one town from securing the jobbing houses and factories in competition with another a situation is presented which the act to regulate commerce was designed to correct. The rule is therefore laid down that when the question of freight rates enters into the competition of cities and towns in any respect whatsoever, whether that competition is one for trade, factories, or people, complaints alleging unjust discrimination will be entertained by the Commission.

The adoption of the proposal to effect an equalization in eastern Texas only would result in undue prejudice and disadvantage not alone to Shreveport but to all points in eastern Texas. For example, traffic moving for 245 miles or less on class rates in eastern Texas would take rates no lower than those applied for similar hauls between Shreveport and Texas, while like shipments moving for like distances in sparsely settled western Texas, under less favorable transportation conditions, would move on considerably lower rates. This, it is said, is none of our concern. It may be that the undue prejudice to one section of Texas and undue preference of another section that would inevitably follow the adoption of protestants' proposal can add nothing to our powers, but, inasmuch as it would be a result of our order, we can hardly dismiss the matter in this cavalier fashion. We are not disposed to view it as an abstract and academic question. In our supplemental report and order in this proceeding, a limited number of carriers being named as defendants, we endeavored to confine our order to what we defined as "eastern Texas." Protests were so numerous, and the evidence presented informally so convincing, that the order would result in discriminations far greater than those which we sought to prevent, that we postponed and, after hearing, vacated our supplemental order.

Even aside from what in our opinion is Shreveport's undoubted right to make such shipments in interstate commerce as it can "upon fair terms and without molestation or hindrance," the proposed limitation has in our judgment been shown to be impracticable.

As we view it, the essential facts are that these interstate carriers were, by the maintenance of lower intrastate rates, subjecting Shreveport, Shreveport shippers, and interstate commerce to undue prejudice. The fact that these intrastate rates were maintained in compliance with the requirements of state authorities is immaterial except as it requires a greater degree of precision in defining the territory and traffic to which the order applies. *Houston & Texas Ry. v. United States, supra*, 354.

We have carefully examined the class rates and rates upon commodities affected which were established by the Texas commission. We are not of opinion that they are the proper measure of reasonable rates to be applied on interstate shipments, or that they afford an appropriate standard for the removal of the undue prejudice found to exist. On the contrary we consider them, in instances where they are substantially below those prescribed herein as maxima, unduly low and burdens upon interstate commerce.

In our report of July 7, 1916, after analyzing certain financial data regarding the Texas railroads, which showed a deficit of approximately 20 millions as a result of eight years' operation of 32 of the principal roads, we said, at page 103:

These statements and exhibits, concerning which we know of no dispute, are indicative that there is something wrong with the Texas railroads.

A number of the Texas roads are affiliated with roads operating in other states from which they have borrowed large sums of money as yet unpaid. It can hardly be doubted that roads in such precarious financial condition are not in the best condition to fulfill their duties as a part of our national transportation system in the time of national peril.

It is to be noted that this proceeding differs essentially from one brought by a carrier to show that a system of rates is confiscatory. In the latter the courts have before them the protection of the security holder's investment, a question of private rights, under the constitutional guaranties. The rule for determining such issues was laid down in *The Minnesota Rate Cases, supra*, at pages 433 and 452, as follows:

The rate-making power is a legislative power and necessarily implies a range of legislative discretion. \* \* \* It is fundamental that the judicial power to declare legislative action invalid upon constitutional grounds is to be exercised only in clear cases.

Here we have presented the public aspect of the question. That is, while, of course, the rights of investors, as of all other classes of the public, are to be protected, the essential matters to be decided are, What will be just and reasonable rates for the future, taking into consideration the conditions under which the service is performed and the interests of the entire public, including consumers, shippers, and carriers?

The outlook of the Commission \* \* \* must be as comprehensive as the interest of the whole country. If the problems which are presented to it, therefore, are complex and difficult, the means of solving them are as great and adequate as can be provided. *Interstate Comm. Com. v. Chi., R. I. & Pac. Ry.*, 218 U. S., 88, 103.

It does not at all follow that a rate which just misses being confiscatory is a just and reasonable rate. *Dimmitt-Caudle-Smith Live Stock Commission Co. v. R. R. Co.*, 47 I. C. C., 287, 298, and cases cited.

In our recent Special Report to the Congress we said:

The carriers have the right to demand at our hands, and it is our duty to approve, just and reasonable rates sufficient to yield fair returns upon the value of the property devoted to public use after necessary expenditures for wages, fuel, and supplies, reasonable expenditures for maintenance, renewals, and betterments properly chargeable to operating expenses, and appropriate depreciation.

We are here confronted with the clear-cut and fundamental question of whether the state or the nation shall prescribe the standard to be observed on the interstate highway. It would seem that this subject is foreclosed by the decision of the Supreme Court in *Houston & Texas Ry. v. United States*, *supra*, where it was said, at page 355:

It is also clear that in removing the injurious discriminations against interstate traffic arising from the relation of intrastate to interstate rates Congress is not bound to reduce the latter below what it may deem to be a proper standard, fair to the carrier and to the public. Otherwise it could prevent the injury to interstate commerce only by the sacrifice of its judgment as to interstate rates. Congress is entitled to maintain its own standard as to these rates and to forbid any discriminatory action by interstate carriers which will obstruct the freedom of movement of interstate traffic over their lines in accordance with the terms it establishes.

Having this power, Congress could provide for its execution through the aid of a subordinate body, and we conclude that the order of the Commission now in question can not be held invalid upon the ground that it exceeded the authority which Congress could lawfully confer.

Upon consideration of the record we are of opinion and find that it would be unduly prejudicial to Shreveport for defendants to maintain and apply higher class rates, or higher rates on the following commodities in carloads, namely: Horses and mules; sand and gravel; common brick; fire brick; junk; machinery (gin and irrigation); glass fruit jars and bottles; iron and steel articles; potatoes and turnips; fruits, melons, and vegetables; empty barrels and kegs; blackstrap molasses; cotton seed, cottonseed cake and meal; cottonseed hulls and bran, rice bran, and rice hulls; unshelled peanuts; flour; wheat; corn; hay; agricultural implements (except hand implements); bagging and ties; cans, cases, and pails (tin); dry goods; window glass; oil (refined petroleum); iron and steel pipe; on other commodities, in carloads, taking the same rates, respectively, as shown in the appendix; and on cotton piece goods, coarse,<sup>1</sup> less than carloads; barrels,<sup>1</sup> less than carloads; and straight or mixed carloads

<sup>1</sup> As designated in our foregoing conclusions under "2. Classification," subhead (a).

of beverages, and of beverages and mineral or spring water;<sup>1</sup> between Shreveport and points in Texas, than they contemporaneously maintain and apply to the transportation of like property for like distances between points in Texas, except as provided in our foregoing conclusions under the heading "Points on or near the Gulf of Mexico."

(d) Much that has just been said applies here and need not be repeated. The gist of the objection regarding classification is that in some instances the application of the Texas classification rating results in a higher charge than would accrue under the western classification, and that in such instances there can be no undue prejudice to Shreveport.

In approaching this subject the distinction between rates and classification must be remembered. In this country many commodities moving in large volume are accorded what are known as commodity rates, i. e., specific rates applicable only on a designated commodity and articles grouped therewith. For convenience the great majority of articles move on class rates. These are rates designated by numbers and letters, often bearing some definite percentage relationship to one another, and generally either based upon distance or made between specific points with due regard for distance. These rates standing alone are meaningless. Their applicability is determined by the governing classification. The classification is in general a list of articles that will move on the class rates, in the absence of specific commodity rates. Articles are classified, i. e., given ratings such as, say, fourth class in less-than-carload shipments and fifth class in carloads; carload minima are usually stated, and there are rules and regulations governing packing, mixed carload shipments, and other matters. It is obvious that to remove undue prejudice it is necessary to have definite standards of comparison and that even where class rates themselves are the same, these can exist only where the descriptions of the articles and the various rules and regulations are the same for both interstate and intrastate shipments.

It seems to be conceded that we could have found the provisions of the western classification reasonable for application on shipments between Shreveport and Texas points and required the removal of undue prejudice with probably the same results as have occurred. The objection goes to the form rather than the substance of our order. In the light of all the evidence now before us we are of opinion that our former conclusion as to classification should be modified in certain particulars.

The Congress has authorized us to prescribe rates as maxima, not the precise rates to be applied. Our powers as to classification are not thus restricted. At the present time there remain but three

principal classifications in the country. Of these, the western is the one of present interest. With exceptions as to certain items to meet local needs it is observed on interstate traffic in this southwestern territory. It has been adopted by the great majority of the states west of the Mississippi River for use on intrastate traffic.

For many years uniformity in classification has been sought and much progress made. We do not feel that the results attained should be jeopardized by leaving it optional with each carrier to remove undue prejudice by applying to commerce between Shreveport and Texas points the provisions of the Texas classification. This would in turn create discrimination in favor of Shreveport and against other competing points.

In order to prevent the recurrence of the former undue prejudice against Shreveport we shall require the application to the transportation of property between Shreveport and Texas points of the current western classification in effect at the time shipments move, with exceptions thereto then in effect on traffic between Texas and contiguous states north and east thereof as stated in southwestern lines' classification exceptions and rules-circular. The carriers will also be required to cease and desist from maintaining and applying any different classification rules or any higher rating or carload minimum to the transportation of property between Shreveport and Texas than they contemporaneously maintain and apply to the transportation of like property within Texas.

In making our report and order of July 7, 1916, we were not unmindful of their far-reaching effect. We were then and are now convinced that no attempt on our part to limit the scope of our order to a defined section in the eastern part of Texas would adequately meet the situation and extend to Shreveport the full relief to which that city was entitled. If a single city in Texas, whether large or small, near the border of the state, or near its center, were denied the benefit of the equality of rates from and to all points that is accorded to all other cities in that state, no possible doubt could exist regarding the resulting undue prejudice and disadvantage. It would manifest itself in the difficulty of attracting to such city commercial houses, industries, and population. To limit or restrict the area to and from which such city could ship on equal terms with other near-by points, while the entire area of the state was open to all other cities, would be to put upon such a locality an obvious disadvantage.

Any attempt on our part to limit or restrict the area in Texas to and from which Shreveport could ship on equal terms with cities in Texas would have had the effect of continuing in part the prejudice against which the complaints were directed, and which we had found to be undue. We were dealing not with isolated instances

of rate disparities, but with a complete system of intrastate rates lower, as a rule, than corresponding rates for like distances between Shreveport and Texas points. From the evidence of record we believed that the maintenance by these interstate carriers of the two divergent systems of rates inevitably tended to restrain and interfere with the free movement of interstate commerce between Shreveport and Texas points. The undue prejudice was state-wide and could only be removed by an order of equal scope. The evidence presented on rehearing confirms and strengthens these conclusions. We have given careful consideration to all the suggestions and objections that have been offered, including those respecting the scope of territory, the particular commodities covered by our order of July 7, 1916, and the requirements regarding classification. It is our opinion, and we find, that the area in Texas from and to which Shreveport may reasonably expect to ship freight embraces the entire state of Texas. The shipments shown during the test period indicate a reasonable likelihood of shipments to and from any and every station in the state.

It seems elementary that under our laws and institutions Shreveport has the right to an equality of opportunity with Texas cities to ship freight on these interstate highways from and to every point within the state of Texas. As stated above, the maintenance of a full line of class and commodity rates from and to every station, village, and city in the state of Texas on a basis generally lower, distance considered, than the corresponding rates to or from Shreveport deprived that city of this fundamental right. There are no transportation conditions justifying higher rates, distance considered, between Shreveport and Texas points than between points in Texas. The only apparent reason for the exclusion of Shreveport from equal opportunities for trading in Texas, thus in effect building a tariff wall about the state, is that Shreveport lies east instead of west of the line between Texas and Louisiana.

An order will be entered modifying our order of July 7, 1916, and giving effect to the conclusions stated in this report.

## **APPENDIX.**

### **APPLICATION OF RATES.**

The rates and minima hereinbefore prescribed for the following commodities will also apply on the other commodities hereinafter listed as taking the same rates.

#### ***Sand and gravel.***

Sand and gravel rates will apply on crushed stone (broken stone ranging in size up to 200 pounds weight, riprap, sand, gravel, common shells for paving, roofing, and similar purposes; soil; barnyard manure; clay, except treated or milled fire clay; also except ground clay in bags), cinders, crushed brick or brick butts.

#### ***Common brick.***

Common-brick rates will apply on vitrified brick and fire clay.

#### ***Fire brick.***

Fire-brick rates will apply on fire-brick tiling, fire-clay flue lining, gypsum building blocks, draintile (not sewer pipe), hollow building tile, and sewer segment blocks.

#### ***Junk.***

Junk rates will apply on empty secondhand bottles, broken glass, glue stock (dry and green bones, hide cuttings and fleshings, sinews and pizzles, hoofs, horns, dried horn and gano piths or tiths), oil press cloth (old or discarded), old rubber, old leather, scrap paper, rags, scrap metal (brass, copper, lead, tin, zinc, and babbitt), scrap lead dross, cotton factory sweepings (old string, old rope, old bagging, cloth ends, and refuse cotton packing, loose in sacks or bagging), leather scraps.

#### ***Machinery (gin and irrigation).***

Rates on machinery (gin and irrigation) will apply on cotton gins and cotton-gin machinery of all kinds, cotton compresses, combination gins and compresses and parts thereof, irrigation-plant machinery, consisting of engines and pumps; also air compressors, storage tanks, gasoline and water tanks, pipe, pipe fittings, valves, fluming, belts, pulleys, shafting, shaft boxes or bearings, shaft couplings, and set collars when shipped with and forming a part of such machinery.

#### ***Iron and steel articles.***

Rates on iron and steel articles will apply on angle, hoop, rod, band, bar, boiler, plate, skelp, tank and boiler plates, band iron for water tanks, cisterns, and conduits, nail plates, beams, columns, and girders, bridge material, rivets, nuts, bolts, washers, channel iron, zees and tees, iron angles, turnbuckles, metal expanded sheets, including expanded steel lath and perforated iron lath, metal reinforcement, roofing, and sheet.

*Fruits, melons, and vegetables.*

Rates on fruits, melons, and vegetables will apply on peaches, pears, plums, Japanese persimmons, cantaloupes, beets, carrots, parsnips, tomatoes, and other vegetables.

*Flour.*

Flour rates will apply on the following articles:

Barley, pearl.	Flour—Continued.	Maizea.
Farina.	Pancake.	Oat flake.
Flour :	Prepared.	Oat groats.
Barley.	Rice.	Oatmeal.
Buckwheat.	Rye.	Oats, rolled.
Corn.	Self-rising.	Rye, rolled.
Cotton seed, or flour	Wheat.	Wheat, cracked.
made from cotton	Grits.	Wheat, crushed.
seed and wheat.	Hominy.	Wheat, rolled.

*Wheat.*

Wheat rates will apply on the following articles:

Alfalfa, ground.	Linseed meal.	Screenings, grain.
Barley.	Masilina.	Seeds :
Beet pulp, dried.	Middlings.	Alfalfa.
Bran (except rice bran).	Mill feed.	Beggar weed.
Buckwheat.	Mill stuff.	Broom corn.
Buckwheat feed (bran and	Milo maize, crushed.	Bromis inermis.
middlings).	Meal :	Cane.
Buckwheat hulls.	Alfalfa.	Clover.
Chops :	Barley.	Cumin.
Barley.	Corn.	Flax.
Corn.	Feterita.	Grass.
Egyptian wheat.	Peanut hay.	Hemp.
Feterita.	Rye.	Hungarian.
Kafir corn.	Mica grit.	Millet.
Milo maize.	Oat clippings.	Mustard, wild.
Oat.	Oyster shells, ground or	Rape.
Rye.	crushed.	Sorghum.
Wheat.	Peas, field, dried.	Vetch.
Hominy feed.	Poultry grit, including	Shorts.
Kafir corn, crushed.	crushed stone.	Tortina.
Linseed cake.	Rye.	Wheat.

Also on :

Chicken feed, made of grain, seeds, and oyster shell or crushed stone.

Mixed feeds composed of two or more articles taking wheat, corn, or hay rates.

Mixed feeds composed of one or more articles taking wheat or corn rates, and cotton seed, cottonseed products, rice products, or sunflower seed.

Mixed feeds composed of blackstrap molasses and any one or more of the following: Articles taking wheat or corn rates, cotton seed, cottonseed products, rice products, and prepared stock and poultry feeds, exclusive of medicated stock feeds.

**NOTE.**—Mixed feeds as above specified, where reference is made hereto, will take wheat rates regardless of whether the same are cooked or not cooked, and not to exceed 5 per cent of the mixture may consist of salt or other condiments or medicinal articles.

*Corn.*

Corn rates will apply on the following articles:

Corn (except pop corn).	Kafir corn.	Oats.
Egyptian wheat.	Milo maize.	Spelts.
Feterita.		

Also on oats and barley, blended, when the proportion of barley does not exceed 25 per cent.

*Hay.*

Hay rates will apply on the following articles:

Class 1. Alfalfa hay.

Class 2. Johnson grass hay.

Class 3. Millet hay.

Class 4. Prairie hay, including prairie, Bermuda, crab, mesquite, and other wild-grass hay.

Class 5. Sorghum hay, including cane, milo maize, and Kafir corn, and corn-stalks.

Class 6. Straw, including rice, rye, wheat, oat, millet, and barley straw.

Class 7. Vine hay, including peanut, pea, and bean hay.

Class 8. Corn husks.

Class 9. Peanut hulls.

*Agricultural implements, except hand implements.*

These rates will apply on agricultural implements other than hand agricultural implements (except hand implement binder twine and parts thereof listed under the head of "agricultural implements, other than hand," in current western classification No. 54 (R. C. Fyfe's I. C. C. No. 12), threshers and thresher engines; farm wagons and parts thereof, including one feed box for each wagon; farm trucks; dump carts and dump wagons, knocked down; windmills and parts thereof, in straight or mixed carloads with binder twine, windmill and hand pumps, wooden or iron (see note B); and gasoline engines (see note A); pump jacks, minimum weight, 24,000 pounds).

NOTE A.—The aggregate amount of binder twine, windmill and hand pumps, and gasoline engines that may be included in any shipment under the rates named in this item shall not exceed 8,000 pounds.

NOTE B.—The number of windmill and hand pumps that may be included in any shipment shall not exceed the number of windmills included in the car.

*Bagging and ties.*

Rates on bagging and ties will apply on bagging for baling cotton; cotton bale ties and buckles, straight or mixed carloads; bagging, straight carloads, 24,000 pounds. Ties and buckles, straight carloads, or mixed with bagging, 30,000 pounds.

*Cans, cases, and pails (tin).*

(a) Rates on cans, cases, and pails will apply on cans, tin only, and cases, empty (including lard pails, paint pails, lithographed cans, japanned cans, tin oil cans, tin boxes, and fruit cans), having straight sides, not nested, carloads, minimum weight, 9,000 pounds per 36-foot car (see note 1).

(b) Same, not having straight sides, nested, carloads, minimum weight, 12,000 pounds per 36-foot car (see note 1).

The following minimum weights shall apply on cans, tin only, and cases, empty, as described in this item on shipments loaded in cars of the following lengths:

[Minimum weights shown in column No. 1 apply on cans having straight sides, not nested. Minimum weights shown in column No. 2 apply on cans not having straight sides, nested.]

Length of cars, inside measurement.	No. 1.	No. 2.
	<i>Pounds.</i>	<i>Pounds.</i>
Cars 36 feet 6 inches and under.....	9,000	12,000
Cars 36 feet 7 inches to and including 40 feet 6 inches in length (ordinary box cars)...	10,000	13,440
Cars 39 feet 7 inches to and including 40 feet 6 inches in length (furniture equipment)...	11,000	15,000
Cars 40 feet 7 inches to and including 45 feet 6 inches in length.....	13,000	17,400
Cars 45 feet 7 inches to and including 50 feet 6 inches in length.....	16,000	19,800

Dry goods.

Rates on dry goods will apply on boots and shoes, including rubber boots and shoes, books, printed, blank and sales, brushes, carpets, carpeting and rugs, clocks, clothing, as described in note 1; crockery, drugs and medicines, dry goods, as described in note 2; earthenware, glassware, not including cut glass, hats and caps, herbs, as described in items 5, 6, and 7, page 197, western classification No. 54 (R. C. Fyfe's I. C. C. No. 12); leather goods, as described in note 4; linings, carpet, linoleum and oilcloth, notions, as described in note 3; roots, as described in items 9 to 28, page 327, western classification No. 54 (R. C. Fyfe's I. C. C. No. 12); rubber goods, as described in note 5; stationery, toys, and umbrellas, in straight or mixed carloads, minimum weight 24,000 pounds.

NOTE 1.—Clothing:

Aprons.	Corsets.	Neckwear.	Underwear.
Blouses.	Collars.	Overalls.	Waists.
Brassiers.	Drawers.	Petticoats.	
Cloaks.	Dresses.	Pajamas.	
Clothing.	Hosiery.	Rompers.	
Clothing, oil and rubber.	Knit goods.	Shirts.	
	Kimonos.	Sweaters.	

NOTE 2.—Dry goods: Cotton piece goods, coarse, viz: Backbands, bats, and wadding; calico; canton flannel; canvas; corset jeans; cotton plaids; cottonades; cotton warp; cotton waste; cotton kerseys; cotton rope; crash cotton; domestic checks, stripes, and chevots; cotton duck; denims; drills, domestic gingham; glazed fabrics; osnabergs; sheeting; silesias; sack material; teasel cloth; cotton twine; ticking; webbing; window hollands and shade cloth, plain, uncut, and undecorated; cotton jeans.

Bathrobes.	Felt.	Portières.	Trimmings.
Belting.	Fixtures, curtain.	Quilt padding.	Upholstery goods.
Blankets.	Gauze dressing.	Quilts.	Velvet.
Braids, cotton.	Handkerchiefs.	Ribbon.	Velveteen.
Comforts.	Lace curtains.	Rollers, shade.	Woolen domestics.
Cotton tape.	Laces.	Shades, window.	Woolen, flannel.
Crash.	Lap robes.	Sheets.	Woolens.
Diaper cloth.	Linen.	Shoe laces.	Yarn, woolen and cotton.
Draperies.	Mats and matting.	Shoulder pads.	
Dress shields.	Mosquito netting.	Suiting.	
Elastic web.	Napkins.	Towelings.	
Embroidery.	Pillow cases.	Towels.	

NOTE 3.—Notions:

Buttons.	Hooks, button.	Needles.	Thread.
Garters.	Hooks and eyes.	Pens.	
Hair curlers.	Molds, button.	Pins.	

NOTE 4.—Leather goods: Bags; gloves, leather; belts; pocketbooks and cases; leggins.

NOTE 5.—Rubber goods: Bathing caps; gloves; syringes; hose, as described in western classification No. 54 (R. C. Fyfe's I. C. C. No. 12), on reissues; water bottles.

*Oil (refined petroleum).*

Rates on oil will apply on oil, petroleum, and products, viz: Refined (illuminating or burning) petroleum, benzine, benzole, petroleum (lubricating), naphtha and gasoline, in tank cars furnished by shippers, straight or mixed carloads; also in barrels, iron drums, and cases, and petroleum in glass (boxed), in jacketed cans and tin cans (boxed), petrolatum or petroleum jelly (vaseline) and petrolatum oil, in barrels and cases; also axle grease and paraffin wax, straight or mixed carloads, minimum weight 26,000 pounds, except that freight charges on shipments transported in tank cars will be determined in the manner prescribed in item No. 298, or reissues thereof, of southwestern lines' classification exception and rules circular No. 1-G (F. A. Leland's I. C. C. No. 1137).

*Iron and steel pipe.*

Rates on iron pipe will apply on wrought-iron or steel pipe, welded or seamless, and iron or steel boiler tubes, in straight or mixed carloads, and on iron or steel conduit pipe, in straight or mixed carloads, minimum weight 46,000 pounds; on cast-iron pipe, couplings, and connections in straight or mixed carloads, minimum weight when 18 inches and less in diameter, 36,000 pounds; when over 18 inches in diameter, 30,000 pounds; pipe hangers in straight carloads or in mixed carloads with cast-iron pipe, couplings, and connections, 18 inches and less in diameter, minimum weight 36,000 pounds; in mixed carloads with cast-iron pipe, couplings, and connections, over 18 inches in diameter, minimum weight 30,000 pounds.

Iron or steel or iron body couplings, connections, and fittings (see note 1); iron fire hydrants or plugs; cast-iron service or valve boxes; iron and iron body valves (see note 1); valve springs; water gates, water meter, and stopcock boxes; steel drill rods; iron body well-pipe screens, in straight or mixed carloads, minimum weight 46,000 pounds (see note 2).

**NOTE 1.**—Pipe fittings and valves under 3 inches in diameter must be packed in boxes, barrels, kegs, casks, or bags, or strung on wire.

**NOTE 2.**—Brass and bronze valves, brass pipe fittings, steam traps, steam and oil separators, and iron body well strainers, aggregating not more than 15,335 pounds, may be included in a carload with any or all of the articles specified in this paragraph, subject to a minimum weight of 46,000 pounds for the entire lot.

*Cotton piece goods, coarse, less than carloads.*

Backbands.	Cotton shirting.	Glazed fabrics.
Bats and wadding.	Cotton wicking.	Osnaburgs.
Calico.	Cotton kerseys.	Percales.
Canton flannel.	Cotton rope.	Sheeting.
Canvas.	Crash cotton.	Silesias.
Corset jeans.	Domestic checks, stripes,	Sack material.
Cotton plaids.	and chevrons.	Teasel cloth.
Cottonades.	Cotton duck.	Ticking.
Cotton jeans.	Cotton twine.	Webbing.
Cotton warp.	Denims.	Window hollands, shade
Cotton waste.	Drills.	cloth, plain, uncut and
Cotton yarn.	Domestic gingham.	undecorated.

No. 8936.  
SUNDERLAND BROTHERS COMPANY  
v.  
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY  
ET AL.

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*Submitted November 24, 1917. Decided February 4, 1918.*

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Rates on cement, in carloads, from Chanute, Kans., to Zion and Macksburg, Iowa, unreasonable to the extent that they exceed the distance scale authorized in *Western Cement Rates, ante*, page 201, for application in this territory. Reparation denied.

*William E. Lamb* and *B. L. Glover* for complainants.

*L. C. Mahoney* for Chicago, Burlington & Quincy Railroad Company; *J. W. Allen* for Missouri, Kansas & Texas Railway Company.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

The complainant is a corporation, with offices at Omaha, Nebr., engaged in buying and selling fuel and various building materials, among which is cement. Under the complaint filed herein it is alleged that the rates charged by defendants upon certain shipments of cement, in carloads, from Chanute, Kans., to Zion and Macksburg, Iowa, which are stations on the line of the defendant Creston, Winterset & Des Moines Railway Company, are unreasonable and unjustly discriminatory to the extent that they exceed the rates from Chanute to Des Moines, Iowa, and other points, and are unreasonably prejudicial as compared with rates on cement from Mason City, Iowa, and Des Moines to the same destinations. Reparation is asked upon 15 carloads moving in 1914 and 1915 from Chanute to Zion and Macksburg.

This case was originally set for hearing with *Western Cement Rates, ante*, page 201, recently decided. Objection was raised by the complainant to its consolidation with that docket and a separate hearing was had thereon by unanimous consent during the final hearing of that docket. It was agreed that reference might be made by all parties to such portions of the record in *Western Cement Rates, supra*, as might be considered relevant to the issues in the instant case.

The rates complained of, which are combinations of locals, are 17.1 cents and 17.4 cents per 100 pounds to Zion and Macksburg, re-

spectively, from Chanute. Complainant asks that a through rate be established not in excess of 12.5 cents per 100 pounds. Exhibits were introduced by the complainant setting forth comparisons of rates to the same destinations from the competitive producing points, Prospect Hill, Mo., La Salle, Ill., Hannibal, Mo., Mason City, and Des Moines.

Inasmuch as the territory involved in this case is included within the scope of our report in *Western Cement Rates, supra*, it follows that the reasonable maximum rates to the destinations here involved will be the rates prescribed in the report therein. It was there decided that the mills in the Kansas gas belt group, which includes Chanute, should be entitled to the scale II basis of rates as therein provided for destinations within scale II territory, which includes Iowa. The finding in this case will, therefore, follow the findings in *Western Cement Rates, supra*, wherever applicable.

With respect to the question of reparation, the evidence in *Western Cement Rates, supra*, in connection with the evidence in the instant case shows that the shipments in question were sold by the Ash Grove Lime and Portland Cement Company at Chanute to the complainant and shipped to complainant at the destinations referred to in the complaint where they were in turn sold to the Fullerton Lumber Company. The sale to complainant was made f. o. b. point of origin at Chanute, whereas the sale to complainant's customer was made f. o. b. destination, the freight charges being paid by complainant.

In *Investigation of Alleged Unreasonable Rates on Meats*, 28 I. C. C., 332, and in many decisions since that date we have adhered to the principle that in a comprehensive and systematic readjustment of rates prescribed by us within a large section of territory, claims for reparation will not ordinarily be allowed. *Anadarko Cotton Oil Co. v. A., T. & S. F. Ry. Co.*, 20 I. C. C., 43; *Boardman v. Southern Pacific Co.*, 37 I. C. C., 81; *Arlington Heights Fruit Exchange v. Southern Pacific Co.*, 39 I. C. C., 88; *Independent Ice, Feed & Fuel Co. et al, v. S. P., L. A. & S. L. R. R. Co. et al*, 44 I. C. C., 666. Following the decisions above referred to, reparation in the instant case will be denied.

An appropriate order will be entered.

INVESTIGATION AND SUSPENSION DOCKET No. 1016.

SOUTHWESTERN CLASS CASE.

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*Submitted November 1, 1917. Decided January 23, 1918.*

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Proposed increased class rates between points in Oklahoma and points in Texas, between Oklahoma and Shreveport, La., between points in Kansas and the panhandle of Texas, and between points in Oklahoma on interstate traffic not justified. Tariffs under suspension ordered canceled without prejudice to the filing of tariffs in conformity with the findings of this report.

*C. S. Burg* for Missouri, Kansas & Texas Railway, Missouri, Kansas & Texas Railway of Texas, and Wichita Falls & Northwestern Railway Company and their receiver; *Wallace T. Hughes* for Chicago, Rock Island & Pacific Railway Company and Chicago, Rock Island & Gulf Railway Company; *S. W. Hayes* and *T. J. Norton* for Atchison, Topeka & Santa Fe Railway Company, Gulf, Colorado & Santa Fe Railway Company, and Panhandle & Santa Fe Railway Company; *Thomas Bond*, *W. M. Powers*, and *A. E. Haid* for St. Louis-San Francisco Railway Company and St. Louis-San Francisco Railway Company of Texas; *W. S. Cornell* and *Geo. Thompson* for Texas & Pacific Railway and its receivers; *Baker, Potts, Parker & Garwood* for Southern Pacific lines in Texas; and *F. R. Dalzell* for Gulf, Colorado & Santa Fe Railway Company, respondents.

*Geo. A. Henshaw*, *W. D. Humphrey*, *H. L. Bennett*, *J. M. Gayle*, *J. H. Johnston*, and *W. V. Hardie* for Oklahoma City Traffic Association and Oklahoma Wholesale Grocers' Association; *W. D. Humphrey*, *H. L. Bennett*, *Walter Sager*, *J. M. Gayle*, *J. E. Love*, and *Campbell Russell* for Corporation Commission of Oklahoma; *F. S. Jackson* and *A. E. Helm* for Public Utilities Commission of the State of Kansas; *J. E. Noon* for Tulsa Traffic Association; *C. D. Mowen* for Fort Smith Traffic Bureau; *H. M. Gregory* for Railroad Commission of Arkansas; *E. D. Bevitt* for Greater Muskogee Association; *Ed. P. Byars* for Fort Worth Freight Bureau and Texas Industrial Traffic League; *Geo. H. Fleishman* and *F. S. Jackson* for Wichita Traffic Bureau; *H. G. Struble* for Hale-Halsell Grocery Company; *H. C. McCord* for Bartlett Collier Glass Company; *A. C. Johnson* for Wilson & Company, Oklahoma City, Okla.; and *J. R. Baker* for Morris & Company.

## REPORT OF THE COMMISSION.

DIVISION 2, COMMISSIONERS CLARK, DANIELS, AND WOOLLEY.

DANIELS, *Commissioner*:

The carriers in this proceeding propose increased class rates between Oklahoma and Texas; between Kansas and the panhandle of Texas; between Shreveport and points in Oklahoma involved in *Shreveport Chamber of Commerce v. K. C. S. Ry. Co.*, 39 I. C. C., 296; and between points in Oklahoma on interstate traffic. The proposed rates were suspended till December 1, 1917, and the effective date was thereafter voluntarily deferred by the carriers till April 1, 1918.

In justification of the proposed rates the respondents maintain:

(1) That the class rates between Oklahoma and Texas, between Kansas and the panhandle of Texas, and between points in Oklahoma on interstate traffic are subnormal owing to two principal causes: First, the earlier competition of the carriers in taking care each of its own principal jobbing points; second, the reductions of class rates during the last 30 years by the governmental authorities of Texas and Oklahoma. These reductions, it is claimed, are reflected in the rates between those states.

(2) That the class rates from the Missouri and Mississippi rivers and jobbing points basing thereon to Texas and Oklahoma have been increased during the last 25 years, while the class rates within and between these states have in the same period been reduced.

(3) That the class rates from the Missouri and Mississippi rivers and points basing thereon to Oklahoma and Texas are proportionally higher than the rates within these states or between these states.

(4) That the less-than-carload freight which constitutes the bulk of the freight moving on class rates does not pay its just and proper proportion of transportation costs.

(5) That neither traffic conditions nor financial conditions in Oklahoma are superior to those in Texas.

(6) That the rates here proposed will go far toward eliminating discrimination as between localities, and as between jobbers; and that they are not intrinsically unreasonable.

The proposed rates are avowedly based on the so-called Shreveport scale prescribed in *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83. There are published in the tariffs, however, a large number of routes of greater length than the short-line distance, and these longer routes are to be used in determining rates between specific points. In consequence, the actual rates resulting under the proposed tariffs are in many instances higher than the rates resulting under the Shreveport scale. In the rehearing of *Rail-*

*road Commission of Louisiana v. A. H. T. Ry. Co.*, 48 I. C. C., 312, the Shreveport scale was slightly modified. Hereafter this modified scale will be referred to as the new Shreveport scale, and the scale appearing in *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, *supra*, will be designated the former Shreveport scale.

In addition to a distance scale there exist group class rates between Oklahoma and Texas, which, except as to group 14, the carriers do not propose to change. Wherever these group rates are lower than the distance rates the former are applicable. The group rates were put in effect after the decision of the Commission in *Southwestern Shippers' Traffic Association v. A., T. & S. F. Ry. Co. et al.*, 24 I. C. C., 570, where, *inter alia*, it was held that the class rates from Galveston to Oklahoma City should not exceed a scale beginning with 112 cents first class. The carriers divided Oklahoma and Texas into groups, as shown by the accompanying map. Group designated "A" was made to include Oklahoma City, and group designated "7" to include Galveston. Between these two groups the 112-cent scale was applied; between other groups the same or a higher scale was applied; but no group rates exist lower than the 112-cent scale.

The evidence in this proceeding deals chiefly with the rates between Texas and Oklahoma. As most of the traffic involved moves on the first four or five classes, these are sufficient for comparison of various scales.

Below are shown the present and suspended rates on the first five classes between Oklahoma City and certain important Texas points, class rates for the same distances under the former Shreveport scale, class rates for the same distances under the new Shreveport scale, and the group rates between group "A" in which Oklahoma City is situated, and the Texas groups in which the indicated Texas points are situated:

	Miles.	1	2	3	4	5
Oklahoma City, Okla., and—						
Fort Worth:						
Present rate.....	1 206	74	65	57	48	41
Suspended rate.....	1 206	85	72	59	51	43
Former Shreveport scale.....	1 225	85	72	59	51	43
New Shreveport scale.....	210	79	67	55	47.5	38
Group A rate.....		112	96	80	73	57
Waco:						
Present rate.....	2 294	97	85	73	62	49
Suspended rate.....	1 389	106	90	74	64	53
Former Shreveport scale.....	2 300	106	90	74	64	53
New Shreveport scale.....	2 300	100	85	70.5	60	48
Group 6 rate.....		112	96	80	73	57
Wichita Falls:						
Present rate.....	2 181	75	68	50	50	42
Suspended rate.....	2 181	88	75	62	53	44
Former Shreveport scale.....	2 200	88	75	62	53	44
New Shreveport scale.....	2 190	85	72.5	60	51	41
Group 3 rate.....		112	96	80	73	57

<sup>1</sup> One line.

<sup>2</sup> Two or more lines.

<sup>3</sup> C., R. I. & P., Ringgold, M., K. & T.

	Miles.	1	2	3	4	5
Oklahoma City, Okla., and—Continued.						
Houston:						
Present group 7 rate.....	<sup>1</sup> 465	112	96	80	73	60
Do.....	<sup>2</sup> 478	112	96	80	73	60
Former Shreveport scale.....	<sup>1</sup> 465	114	97	80	69	57
New Shreveport scale.....	<sup>1</sup> 465	112	95	78	67	54
San Antonio:						
Present group 9 rate.....	<sup>1</sup> 477	118	100	83	78	61
Do.....	<sup>1</sup> 657	118	100	83	78	61
Former Shreveport scale.....	<sup>2</sup> 477	106	90	74	64	53
Do.....	<sup>1</sup> 477	114	97	80	69	57
New Shreveport scale.....	<sup>2</sup> 477	112	95	78	67	54
Galveston:						
Present group 7 rate.....	550	112	96	80	73	57
Former Shreveport scale.....	<sup>2</sup> 550	106	90	74	64	53
Do.....	<sup>1</sup> 550	114	97	80	69	57
New Shreveport scale.....	<sup>2</sup> 550	112	95	78	67	54
Do.....	<sup>1</sup> 550	120	102	84	72	58
Lawton, Okla., and—						
Fort Worth:						
Present rate.....	<sup>2</sup> 155	60	55	48	42	34
Suspended rate.....	<sup>2</sup> 155	75	64	53	45	38
Former Shreveport scale.....	<sup>2</sup> 150-175	75	64	53	45	38
New Shreveport scale.....	<sup>2</sup> 150-160	69	58.5	48	41.5	33
Group 1 rate.....		112	96	80	73	57
Waco:						
Present rate.....	<sup>1</sup> 242	90	79	68	58	47
Suspended rate.....	<sup>4</sup> 242	98	84	69	59	49
Former Shreveport scale.....	<sup>1</sup> 225-250	98	84	69	59	49
New Shreveport scale.....	<sup>1</sup> 240-250	95	81	67	57	46
Group 3 rate.....		112	96	80	73	57
Wichita Falls:						
Present rate.....	<sup>1</sup> 101	54	49	43	39	32
Suspended rate.....	<sup>2</sup> 101	65	55	46	39	33
Former Shreveport scale.....	<sup>1</sup> 100-110	65	55	46	39	33
New Shreveport scale.....	<sup>1</sup> 100-105	61	52	43	37	29.5
Group 3 rate.....		112	96	80	73	57
Houston:						
Present rate.....	<sup>1</sup> 413	114	98	82	71	56
Suspended rate.....	<sup>6</sup> 427	117	100	82	71	58
Former Shreveport scale.....	<sup>1</sup> Over 400	114	97	80	69	57
New Shreveport scale.....	<sup>1</sup> 400-425	112	95	78	67	54
Group 7 rate.....		118	100	83	78	61
San Antonio:						
Present rate.....	<sup>1</sup> 425	114	98	82	71	56
Suspended rate.....	<sup>6</sup> 431	117	100	82	71	58
Former Shreveport scale.....	<sup>1</sup> Over 400	114	97	80	69	57
New Shreveport scale.....	400-425	112	95	78	67	54
Group 9 rate.....		124	105	86	83	65

<sup>1</sup> Two or more lines.  
<sup>2</sup> Santa Fe, Cleburne, T. & B. V.  
<sup>3</sup> One line.

<sup>4</sup> Rock Island, Fort Worth, M., K. & T.  
<sup>5</sup> C., R. I. & P., Ringgold, M., K. & T.  
<sup>6</sup> Rock Island, Fort Worth, T. & B. V.

From the foregoing it appears that the suspended distance class rates between Oklahoma and Texas are higher in every instance than the present distance class scale, are the same as or higher than the former Shreveport scale, that the present distance class scale is in some instances lower and in others higher than the new Shreveport scale, that for certain of the longer distances the group rates between Oklahoma and Texas which are the carrying rates are in some instances higher and in others lower than the former Shreveport scale, and are in most instances shown higher than the new Shreveport scale.

The six contentions of the carriers will be dealt with in order.

1. THAT THE RATES INVOLVED ARE SUBNORMAL.

(a) Carriers favoring their own jobbing points. There is no specific evidence of this except the rate comparisons dealing with  
48 I.C.C.

the history of rates in the general region. The voluntary establishment of such rates in large measure precludes us from according this contention much weight.

(b) The reductions in intrastate class rates in Texas and Oklahoma.

The first annual report of the Railroad Commission of Texas in 1892 showed the maximum rates between Houston and Texas common points. The rates for distances from 177 to 187 miles in the first five classes were:

1	2	3	4	5
88	80	67	65	49

and the rates from Galveston, made by adding differentials, were:

1	2	3	4	5
98	90	77	70	54

In 1902 a new distance scale was established by the Texas commission embodying reductions from the scale of 1895, and the 1902 scale continued in force with only slight changes until the Shreveport scale was published in November, 1916. Table No. 1 in the appendix shows distance class rates for the first five classes applying between Texas points prior to 1895, 1895 to 1902, and 1902 to 1916, using distances of 10, 50, 100, 150, 200, 300, and 400 miles.

It will be observed from this that the tendency of the class rates in Texas from 1895 till 1916, when the Shreveport scale was prescribed by us, was downward.

Table 2 in the appendix shows class rates for the first five classes applying between Oklahoma points upon traffic within that state from 1903. From this it appears that the tendency of class rates in Oklahoma also has been downward. The rates of 1910 were prescribed by the Corporation Commission of Oklahoma.

The present standard distance scale within Kansas was established in 1890 by the Board of Railroad Commissioners of Kansas; the jobbers' scale from certain shipping points in Kansas was established in 1889 and continued till the present. Table 3 of the appendix shows these scales for representative distances.

These rate levels, within Texas, Oklahoma, and Kansas, contend the respondents, are factors which doubtless entered into the determination of the existing Oklahoma-Texas class rates.

2. THAT THERE HAVE BEEN ADVANCES IN CLASS RATES FROM THE MISSISSIPPI AND MISSOURI RIVERS TO OKLAHOMA AND TEXAS. THAT THE CLASS RATES BETWEEN THESE STATES HAVE BEEN REDUCED.

The rates from New Orleans, Memphis, Kansas City, Denver, Chicago, and defined territories were made on a differential basis with respect to the rates from St. Louis to Texas common points. Below are shown class rates from St. Louis to Texas common points

and from St. Louis to Oklahoma City, effective on the various dates indicated, taken from the respondents' exhibits:

ST. LOUIS TO TEXAS COMMON POINTS.

Year.	1	2	3	4	5
1887.....	120	104	88	77	.....
1889.....	133	117	101	90	70
1903.....	137	121	104	96	75
1917.....	147	125	104	96	75

ST. LOUIS TO OKLAHOMA CITY.

1893.....	133	113	99	82	71
1904.....	130	109	97	84	67
1917.....	130	109	97	82	63

Below are certain class rates from Kansas City to Oklahoma City, Ardmore, and Woodward, Okla., at various dates from 1892 to 1917:

KANSAS CITY TO OKLAHOMA CITY.

Year.	1	2	3	4	5
1892.....	86	76	67	57	51
1905.....	95	82	74	64	49
1909.....	95	82	74	62	46
1912.....	95	82	74	62	46

KANSAS CITY TO ARDMORE, OKLA.

1892.....	113	103	94	81	67
1905.....	110	99	89	83	65
1909.....	120	107	97	89	70
1917.....	120	107	96	89	67

KANSAS CITY TO WOODWARD, OKLA.

1892.....	110	100	90	77	62
1905.....	110	99	89	77	62
1909.....	110	99	89	77	62
1917.....	110	99	89	77	62

From this it appears that the rates from St. Louis to Texas common points have been materially increased; that those from St. Louis to Oklahoma City have as to most of the classes been somewhat reduced; that the rates from Kansas City to Oklahoma City have in most instances been increased; that the rates from Kansas City to Ardmore have generally been increased; and that those from Kansas City to Woodward have in instances been reduced.

The protestants contend that the bulk of the less-than-carload traffic in this territory moved upon jobbers' rates which were lower than the standard scales, and that therefore these jobbers' rates are a more appropriate criterion for comparison; and that many lines in

Texas, as a result of wagon competition, on special application to the Texas commission, made rates lower than the Texas scale, upon which to move particular traffic. The respondents admit that considerable merchandise traffic moved on jobbers' rates, but deny that "practically all of it" was so carried. They also testify that in instances rates lower than the Texas scale were made in Texas to meet wagon competition, but that this practice was abandoned more than 10 years ago. The evidence is conflicting as to the amount of traffic actually carried under jobbers' rates and standard rates, respectively.

3. THAT THE CLASS RATES FROM THE MISSOURI AND MISSISSIPPI RIVERS AND POINTS BASING THEREON TO OKLAHOMA AND TEXAS ARE HIGHER THAN THE RATES WITHIN OR BETWEEN THESE STATES.

Table 4 in the appendix shows rates from Kansas City to six points in Oklahoma, and rates for the same distances under seven scales offered for comparison. The protestants point out that the six points shown are on a direct line from Kansas, and that the Missouri River-Oklahoma rates are not based on distance only but apply alike for single and joint hauls and to stations on branch lines by indirect routes. This table, however, indicates that the Oklahoma jobbers have a lower basis of rates to Oklahoma points than the jobbers in Kansas, Texas, and on the Missouri River to the same points. It also indicates that the suspended rates are in most instances higher than the rates between Kansas City and the Oklahoma points cited.

The rates from Kansas City territory to Texas points indicated are group rates, covering a considerable portion of Kansas. Below is a table which shows the present class rates from Kansas City territory to certain Texas jobbing points. The distances from Kansas City and Arkansas City, two points in the group, are given; an average of these distances is taken and the rates for this average distance are shown under the present and suspended Texas-Oklahoma scales:

From—	To—	Miles.	1	2	3	4	5
Kansas City.....	Gainesville....	<sup>1</sup> 451	127	111	96	89	70
Arkansas City.....	do.....	261	127	111	96	89	70
Oklahoma.....	Texas.....	<sup>1</sup> 358	98	85	72	62	49
Do.....	do.....	<sup>1</sup> 358	106	90	74	64	53
Kansas City.....	Fort Worth...	<sup>1</sup> 507	127	111	96	89	70
Arkansas City.....	do.....	325	127	111	96	89	70
Oklahoma.....	Texas.....	<sup>2</sup> 416	106	91	76	66	52
Do.....	do.....	<sup>2</sup> 416	109	93	76	66	54
Kansas City.....	Dallas.....	<sup>1</sup> 509	127	111	96	89	70
Arkansas City.....	do.....	<sup>1</sup> 358	127	111	96	89	70
Oklahoma.....	Texas.....	<sup>2</sup> 433	106	91	76	66	52
Do.....	do.....	<sup>2</sup> 433	109	93	76	66	54

<sup>1</sup>Short-line mileage, M., K. & T.  
<sup>2</sup>Present.  
<sup>3</sup>Suspended.  
<sup>4</sup>Short-line mileage, A., T. & S. F., Fort Worth, and T. & P.

The force of this comparison is somewhat weakened by the fact that as between Kansas City and Arkansas City by far the bulk of the traffic to Texas points is from the former.

The protestants introduced exhibits indicating that the rates under the suspended distance scale between Oklahoma and Texas materially exceed the rates from Kansas City to 27 points in Texas, and the rates from Kansas City to many points in southern Kansas and Oklahoma.

4. THAT L. C. L. FREIGHT DOES NOT PAY ITS PROPER PROPORTION OF TRANSPORTATION COST.

In the territory involved in this proceeding commodity rates are published upon most of the traffic which ordinarily moves in carloads. Consequently the bulk of the traffic which is carried under the class rates here in issue moves in less-than-carload quantities, and the record shows that the first four classes are the most important. Evidence was introduced as to the terminal and line costs incident to less-than-carload traffic.

A witness for the respondents testified that the average haul of less-than-carload traffic on the Missouri, Kansas & Texas for the year ended June 30, 1916, was 206.3 miles, as compared with 214.4 miles on carload traffic; that the average loading on all carload traffic for the calendar year 1916 was 25.3 tons; that the average loading per car of less-than-carload freight for the first six months of 1916, using Oklahoma City, Tulsa, Muskogee, McAlester, and Atoka—points at which merchandise cars are handled—was about 7,000 pounds, or 3½ tons. On the Chicago, Rock Island & Pacific the loading for carload traffic was given as 25.2 tons, and the average loading of less-than-carload traffic for the year ended June 30, 1916, as 4 tons. The witness for the Chicago, Rock Island & Pacific used in his computations 5 tons as the average loading of less-than-carload traffic. Based on these figures the percentage of load to car capacity as between carload and less-than-carload traffic would appear as follows:

	Tons.	Pounds.	Percentage load to weight-carrying capacity.
Average load all carload freight.....	25.2	50,400	.....
Average load all less-than-carload freight.....	5	10,000	.....
Weight-carrying capacity C., R. I. & P. freight cars.....	37.7	75,400	.....
Weight-carrying capacity C., R. I. & P. box cars.....	37	74,000	.....
All freight:			
Carload.....			66.70
Less than carload.....			13.51

The protestants criticize these figures. They maintain that the average loading of *revenue carload* freight is not 25 tons but less than 19 tons; and that to handle a given number of tons of freight

in less-than-carload lots it takes a little less than four times as many cars as to handle the same number of tons in carloads. The carriers contend that five times as many cars are needed.

The percentage of all less-than-carload traffic and earnings to all traffic and earnings of certain carriers reporting to the Corporation Commission of Oklahoma appear as follows:

Road.	Per cent that l. c. l. traffic bears to all traffic, in tons.	Per cent of l. c. l. revenue to total freight revenue.
Atchison, Topeka & Santa Fe.....	5.30	18.26
St. Louis & San Francisco.....	3.84	16.64
Missouri, Kansas & Texas.....	5.38	18.46

An exhibit of the protestants shows that the average loading of cars carrying less-than-carload traffic from 13 stations which handled over 50 per cent of the business of the Santa Fe system in Oklahoma, was 6.09 tons on state and 7.34 tons on interstate traffic.

The station cost on less-than-carload shipments is materially greater than upon carload shipments. A witness for the respondents attempted to arrive at the terminal cost of handling less-than-carload traffic for the last five months of 1913 at 13 stations on the Santa Fe in Oklahoma. He separately assigned the costs where that was possible, and where that was not possible he allocated the remaining costs. The total charges for freight terminal services for the five months ended December 31, 1913, appear as \$495,070.80, of which \$277,238.01 was assigned to carload service and \$217,832.79 to less-than-carload service. In this time 119,665 tons of less-than-carload freight were handled. The subdivision of this cost between the principal items was given as follows:

Station costs:	Cents per ton.
Maintenance of station warehouse.....	9.4
Maintenance of station office.....	2.9
Warehouse labor.....	31.4
Clerical.....	42.2
Miscellaneous station work.....	5.3
Station supplies and expenses.....	4.8

These items make up the total station cost amounting to 96 cents.

Other costs:	Cents per ton.
Maintenance of station tracks.....	4.3
Yard switching.....	10.1
Train stops.....	19.1
Locomotives, repairs, depreciation, and renewals.....	9.6
Car repairs, depreciation, and renewals.....	23.8
Miscellaneous.....	1.1

The total of these miscellaneous other costs being 68 cents per ton.

Overhead and general expenses amount to 18 cents per ton, which, added to the two groups just mentioned, make a total of \$1.82.

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For two terminals this would be \$3.64 per ton for handling less-than-carload freight, or 18.2 cents per 100 pounds. This includes no allowance for taxes, rentals, hire of equipment, return upon property, or loss and damage due to handling at stations. The ratio of operating expenses, excluding traffic, to operating revenues on the Santa Fe for the year ended June 30, 1916, was given as 60.54. Assuming that the terminal service for less-than-carload freight should produce a similar operating ratio, the carriers point out that the full terminal charge would be 60.54 divided into \$3.64 and multiplied by 100, which equals \$6.01, or 30 cents per 100 pounds for two terminal charges of less-than-carload freight.

The protestants contend that the operating ratio of the Texas lines is a more appropriate factor than 60.54, since much of the haul under the rates involved is in Texas. A witness for the Rock Island using a similar method showed the terminal cost of handling less-than-carload traffic at Oklahoma City, Lawton, and Foss to be \$3.38 a ton, or 17 cents per 100 pounds, for two terminal handlings.

The witness for the Oklahoma protestants makes a computation on a somewhat different basis from that of the carriers and gives the cost for two terminal handlings of less-than-carload freight as 13.6 cents and 15.2 cents per 100 pounds for state and interstate traffic, respectively. In their computation as to costs the protestants made no distribution of an item of maintenance of equipment expenses of \$290,000.

That the number of cars required to haul the same number of tons of less-than-carload traffic is materially greater than that necessary to haul carload traffic is obvious. The carriers' witnesses testified that the ratio is at least 5 to 1, while the protestants insist that the ratio is 3½ to 1.

In *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, cost for two terminal services appears as 17.7 cents per 100 pounds. This figure the protestants insist is not comparable because not containing the same factors as the carriers' figures here presented.

Below are the present and suspended rates and the new Shreveport rates on the first four classes for the least distance for which the rates are published:

	Miles.	1	2	3	4
Present.....	10	13	12	10	8
Suspended.....	10	23	19	16	14
New Shreveport scale.....	10	23	19	16	14

In *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, *supra*, the relative percentage of traffic moving under each of these classes

for a given period from Houston and Dallas over the Southern Pacific lines was:

Class .....	1	2	3	4	Total.
Percentage.....	18	8	28	46	100

Applying these percentages to 100 pounds of freight, the proposed rates show the following yields:

	Cents.
First class, 18 pounds, at 23 cents.....	4. 14
Second class, 8 pounds at 19 cents.....	1. 52
Third class, 28 pounds at 16 cents.....	4. 48
Fourth class, 46 pounds at 14 cents.....	6. 44
Total for 100 pounds.....	16. 58

In these figures freight rated higher than first class is not considered, nor the result of the minimum charge rule.

Commodities moving in less-than-carload quantities are usually high grade, and consequently the cost of the service rendered by the carrier, so far as liability is concerned, is above the average. Even accepting the calculations of the protestants, it appears that the existing rates for the shorter distances are unduly low. The protestants recognize this, since one of their witnesses suggests a scale of rates beginning with 24.1 cents first class.

The respondents introduced evidence as to increased cost of operation. One witness showed increases in items of expense on the Rock Island lines in Oklahoma in 1917 over 1916. The average cost of coal per ton in 1916 appears as \$1.92; for January and February, 1917, it was \$2.20. There were also increased labor and material costs.

The protestants showed data as to increased business of the carriers, but how far this increased business may decrease the unit cost of transportation, and how far this cost may be increased by the greater expense from higher wages and more expensive fuel can not even approximately be determined on the record.

**5. THAT NEITHER TRAFFIC CONDITIONS NOR FINANCIAL CONDITIONS OF THE CARRIERS ARE SUPERIOR IN OKLAHOMA TO THOSE IN TEXAS.**

The carriers contend that the transportation conditions in the territory covered by the suspended rates are not essentially different from those in the territory covered by the Shreveport scale, particularly as it is to a large extent the same territory. The protestants insist that the transportation conditions in Oklahoma are more like those in the territory between Nebraska, Kansas, and Oklahoma than between Texas and Oklahoma.

The average intrastate haul of less-than-carload traffic on the Santa Fe in Oklahoma is shown by the report of that carrier to 48 I. C. C.

the Corporation Commission of Oklahoma to be 39 miles. The average haul of less-than-carload shipments on the Missouri, Kansas & Texas for the year ended June 30, 1916, was given as 206.4 miles; this of course includes interstate hauls. A witness for the protestants testified that a great deal of this less-than-carload traffic between Oklahoma and Texas moves up to 100 miles, and consequently the relative transportation conditions in that part of Texas lying toward Oklahoma are most important. An exhibit of the protestants gives the average ton-miles of revenue freight per mile of road for the Texas carriers for 1916 as 601,927, and that of the Oklahoma carriers for the same year as 803,342. The density of traffic in Kansas is greater and the operating expense per mile of road is less than in Texas. As a whole the population of Oklahoma is more dense than that of Texas. There appears, however, an essential similarity between the transportation conditions in the territory here involved and that throughout which the Shreveport scale is effective. In the northern part of Texas and the southern part of Oklahoma similar conditions prevail, and there is no material difference in this respect between eastern Texas and eastern Oklahoma.

Thus, while recognizing certain differences, the transportation conditions between Oklahoma points and Texas points, between Kansas and the panhandle of Texas, and between Oklahoma and Shreveport, are sufficiently similar to those between Shreveport and Texas, that for rate-making purposes they may be similarly treated. From points like Coffeyville, Kans., there appears no reason of record why rates should not be accorded similar to those from near-by points in Oklahoma to Texas destinations. The traffic and transportation conditions from Memphis, Tenn., to points in Arkansas and to Shreveport are not shown of record to be wholly similar to conditions here involved.

6. THAT THE ADOPTION OF THE PROPOSED DISTANCE RATES WILL GO A LONG WAY TOWARD ELIMINATING DISCRIMINATION AS BETWEEN SHIPPERS AND LOCALITIES, AND THAT THE RATES ARE REASONABLE.

In partial justification of their proposed scale carriers urge that it will remedy discrimination against shippers and localities shipping under the former Shreveport scale, and particularly discrimination against Shreveport, La. The carriers assert that as between Oklahoma and Texas a lower scale of rates now prevails. The Oklahoma protestants reply that, even admitting that there are instances where between Oklahoma and Texas lower rates prevail than under the Shreveport scale for approximately the same distance,

the scale here proposed would alter the situation and impose upon the traffic between Oklahoma and Texas an undue prejudice similar to that which the carriers here assert they intend to remove.

Below are the present and suspended rates from certain Oklahoma points to Texas points contrasted with rates from Shreveport to Texas points for similar distances:

From—	To—	Miles.	1	2	3	4	5
Hobart.....	Wichita Falls.	{ Present rate..... 1 97	51	46	41	36	30
		{ Suspended rate.. 122	71	61	50	43	35
Shreveport.....	Pittsburgh.....	2 97	53	45	37	32	27
Woodward.....	Wichita Falls.	{ Present rate..... 2 221	78	68	59	50	42
		{ Suspended rate.. 2 221	85	72	59	51	43
Shreveport.....	Fort Worth.....	2 223	85	72	59	51	43
Enid.....	Alanreed.....	{ Present rate..... 1 238	86	75	65	55	46
		{ Suspended rate.. 2 238	90	77	63	54	45
Shreveport.....	Waco.....	1 239	96	84	69	59	49
Bartlesville.....	Alanreed.....	{ Present rate..... 1 353	106	92	78	67	53
		{ Suspended rate.. 1 356	114	97	80	69	57
Shreveport.....	Wichita Falls.	2 352	106	90	74	64	53
Muskogee.....	Georgetown...	{ Present rate..... 2 420	106	91	76	66	52
		{ Suspended rate.. 2 420	109	93	76	66	54
Shreveport.....	Sweetwater.....	2 425	106	90	74	64	53

1 Two or more lines.  
2 One line.

3 Rock Island direct.  
4 M., K. & T., Oklahoma City, Rock Island.

It will be observed that the existing rates between Oklahoma and Texas are in less than half the instances cited in this table somewhat lower than the rates from Shreveport; that in several instances they are the same; and in the remaining instances actually higher than the rates from Shreveport; further, that in most instances the proposed rates are higher than the Shreveport rates, and in several instances materially higher. Assuming this showing to be representative, it is apparent that the carriers' allegation that one of the chief effects of the proposed scale will be to remedy a discrimination is not well founded.

Although the proposed scale purports to be modeled after the former Shreveport scale, it differs in certain material features. The maximum first-class rate, single-line haul, under the former Shreveport scale was \$1.06 at 351 miles; for greater distances the rates were blanketed until Texas differential territory was reached. Additions were then made by certain prescribed differentials which increased with the distances traversed in that territory. Owing to the fact that differential territory is entered at different points when the traffic is coming from Oklahoma than when coming from common-point territory in Texas, it is in some instances hauled a greater distance through differential territory to reach a given destination in the one case than in the other. This results in rates being higher for the total haul involved on the traffic which moves the greater distance through the higher rated territory. The excess, first class, for hauls from 400 to 425 miles is 3 cents in the case of

single-line rates; and varies from 2 cents to 8 cents, first class, in the case of joint line rates. Tables 5 and 6 in the appendix are illustrative, the first covering representative distances from Oklahoma; the second showing specific rates from Dallas as compared with rates for comparable distances from Oklahoma.

The protestants insist that if the scale to be adopted between Oklahoma and Texas is in any manner to be predicated on the scale prescribed in Texas, the method of applying the rates should be the same. There are over 600 routes set out in the suspended tariffs. The effect of using these routes to fix rates is more marked upon rates between local points than upon rates from points like Oklahoma City, served by two or more railroads.

The following table of the present and suspended rates from Hugo, Okla., to Texas points, and rates under the former and new Shreveport scales for comparable distances, illustrates the effect of making rates via the routes prescribed in the proposed tariff upon such local points as Hugo, Sapulpa, El Reno, and El Dorado:

From Hugo, Okla., to—	Miles.	1	2	3	4	5
Ridgeway, Tex.:						
Present rate.....	<sup>1</sup> 71.4	43	39	34	31	26
Suspended rate.....	<sup>2</sup> 147.5	78	67	55	47	39
Former Shreveport scale.....	<sup>3</sup> 70-80	55	47	39	33	27
New Shreveport scale.....	<sup>3</sup> 70-75	52	44.5	37	31.5	25
Weaver, Tex.:						
Present rate.....	<sup>1</sup> 92.8	50	45	40	35	29
Suspended rate.....	<sup>2</sup> 168.9	83	71	59	50	42
Former Shreveport scale.....	<sup>3</sup> 90-100	61	52	43	37	31
New Shreveport scale.....	<sup>3</sup> 90-95	58	49.5	41	35	28
Maude, Tex.:						
Present rate.....	<sup>4</sup> 118	58	52	45	41	33
Suspended rate.....	<sup>2</sup> 233.2	98	84	69	59	49
Former Shreveport scale.....	<sup>3</sup> 110-120	68	58	48	41	34
New Shreveport scale.....	<sup>3</sup> 115-120	65.5	55.5	46	38.5	31.5

<sup>1</sup> St. L.-S. F., Paris, Tex. Mid. Commerce, St. L. S. W.  
<sup>2</sup> St. L.-S. F., Sherman, St. L. S. W.  
<sup>3</sup> Two or more lines.  
<sup>4</sup> St. L.-S. F., Paris, P., M. & G., Mount Pleasant, St. L. S. W.

The carriers maintain that these routes according to which the scale rates are to be applied are the usual and customary routes; but between Shreveport and Texas and within Texas the distance whereby the rates are determined is taken as the shortest over which the traffic can move. The respondents, however, offered to open new routes when they were demanded and proper. They insist that they should not be required to embrace in any through route substantially less than the entire length of their respective roads, and of any intermediate road operated or controlled by them lying between the termini of such routes.

The protestants are interested primarily in the rates, and in the routes only so far as they are used to determine the measure of the

rate. We find that as a measure of the rate between two points the instructions provided in the suspended tariffs governing the route whose mileage determines the applicable rates are unduly prejudicial to the protestants and results in an undue preference to traffic between Shreveport and Texas and within Texas.

There are accorded commodity rates on certain articles in Texas, which move on a class basis between Oklahoma and Texas. The increased class rates proposed would increase the disparity already existing as to these commodities, of which brooms, canned goods, in carloads, cotton fabrics, less than carload, candy, less than carloads, furniture, carloads, agricultural implements, and glassware were given as examples. The respondents insist that they are not compelled to make rates on any commodity moving on a class rate under the proposed tariffs solely because that commodity may be accorded a lower commodity rate under the *Shreveport Case, supra*. But as the removal of undue prejudice has been cited as a reason for our approval of the suspended rates, the perpetuation or increase of undue prejudice thereunder ought to be avoided.

UNREASONABLENESS.

The present Texas-Oklahoma scale of class rates was prescribed by us in *Corporation Commission of Oklahoma v. A. & S. Ry. Co.*, 23 I. C. C., 688, and 26 I. C. C., 520, in 1913. Below is a comparison of the suspended Oklahoma-Texas rates on the first four classes with rates prescribed by us in 40 I. C. C., 201, Missouri River-Nebraska scale, and with rates from Memphis to southern Arkansas and Louisiana destinations, for distances of 200 miles and over.

Miles.		1	2	3	4
10	Oklahoma-Texas.....	23	19	16	14
	Missouri River-Nebraska.....	24	20.4	16.8	14.4
25	Oklahoma-Texas.....	30	25	21	18
	Missouri River-Nebraska.....	27	22.9	18.9	16.2
50	Oklahoma-Texas.....	37	31	26	22
	Missouri River-Nebraska.....	32	27.2	22.4	19.2
100	Oklahoma-Texas.....	53	45	37	32
	Missouri River-Nebraska.....	42	35.7	29.4	25.2
150	Oklahoma-Texas.....	70	60	49	42
	Missouri River-Nebraska.....	52	44.2	36.4	31.2
200	Oklahoma-Texas.....	80	68	56	48
	Missouri River-Nebraska.....	62	52.7	43.4	37.2
300	Memphis-Arkansas-Louisiana.....	81	69	57	49
	Oklahoma-Texas.....	100	85	70	60
	Missouri River-Nebraska.....	77	65.4	53.9	46.2
	Memphis-Arkansas-Louisiana.....	105	89	74	63

This table indicates that the proposed rates are, except initially, higher than those under the Missouri River-Nebraska scale, and for over 200 miles are somewhat lower than the Memphis-Arkansas-

Louisiana scale. A more convincing comparison, however, is with the former Shreveport rates which are generally somewhat higher than the present Oklahoma-Texas class rates.

The chief witness for the Oklahoma protestants said at the hearing:

We admit that there are some differences to-day that should be ironed out and removed. We are not asking for any lower basis of rates, distances, and transportation and traffic conditions considered, from Oklahoma to Texas than they have in Texas.

In the protestants' suggested scale, as noted above, appears a higher basic rate than that proposed by the carrier or that in the Shreveport scale. This tacitly admits that the traffic conditions in so far as terminal services on less-than-carload traffic are concerned are no more favorable in Oklahoma than in Texas. We are not convinced that the traffic conditions for a line haul between Oklahoma and Texas are so substantially different from those prevalent in Texas or between Shreveport and Texas as to warrant a different basis of class rates.

The rates proposed by the respondents, however, are in many instances, distance considered, higher than the rates in force between Shreveport and points in Texas and between points within Texas. They would not, as alleged by the carriers, satisfactorily remedy existing undue preferences. The continuance of group rates in instances accords lower rates for the longer hauls than under the former Shreveport scale, and to that extent appears to discriminate against Shreveport.

In *Railroad Commission of Louisiana v. A. H. T. Ry. Co., supra*, *inter alia*, commodity rates on specified commodities between Shreveport and points in Texas were found unreasonable and unduly prejudicial to Shreveport as compared with rates on the same commodities for like distances in Texas, and reasonable maximum commodity rates were prescribed; a few of these commodities as cited above move in carloads on class rates between Oklahoma and Texas, and consequently on higher rates than are paid within Texas or between Shreveport and points in Texas. If the class rates applicable upon such commodities were increased as proposed in this proceeding, the existing preference to Texas and Shreveport shippers would be enlarged. On the record no extended showing was made as to the extent of competition as between Oklahoma, Shreveport, and Texas on these few commodities. The similarity of transportation conditions as between these localities urged by the carrier would seemingly argue for a commodity rate adjustment between Oklahoma and Texas similar to that between Shreveport and Texas or within Texas.

We are of opinion and find: (1) That the rates under suspension are unduly prejudicial to the protestants and the localities represented by them in so far as the proposed method of arriving at distances which determine the rates differs from the method prescribed in the *Shreveport Case*, *supra*, and applicable under the contemporaneous Shreveport scale.

(2) That the suspended rates are unjust and unreasonable to the extent that they exceed rates found reasonable in this report.

(3) That the suspended tariffs must be canceled.

(4) That the percentage relationship of rates under the various classes to the first-class rate should be as follows:

1	2	3	4	5	A	B	C	D	E
100	85	70	60	48	52	40	35	30	25

(5) That the differentials on joint line hauls should for the various classes be as follows:

1	2	3	4	5	A	B	C	D	E
8	7	6	5	4	4	4	3	2	2

(6) That the boundaries of Texas differential territory to the extent it is involved in the suspended rates should be the same as those in the report upon rehearing of *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, *supra*.

(7) That the following are just and reasonable maximum class rates between Oklahoma points and points in Texas, between points in Oklahoma on interstate traffic, between Shreveport and points in Oklahoma involved in the report in *Shreveport Chamber of Commerce v. K. C. S. Ry. Co.*, *supra*, and between points in Kansas and points in Texas:

**NOTE 1.**—The above scale of rates should apply to traffic moving over a single line of railroad or over two or more lines that are under the same management and control.

**NOTE 2.**—The rates applied on shipments over two or more lines of railroad not under the same management and control should exceed the rates shown above by not more than

1	2	3	4	5	A	B	C	D	E
8	7	6	5	4	4	4	3	2	2

but in no case should exceed the following for distances of 500 miles or less:

1	2	3	4	5	A	B	C	D	E
112	95	78	67	54	58	45	39	33.5	28

Class rates between points in Oklahoma or Kansas and points in differential territory in Texas may exceed the maximum rates above named by the following differentials in cents per 100 pounds, corresponding to the hauls in differential territory.

These differentials should be applied as follows: The distance between a point in Oklahoma or a point in Kansas to a point in differential territory in Texas is 350 miles, and the part of that distance within differential territory is 70. The rates applicable are

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those in the table for 350 miles, which begin with 97 cents first class, plus the differentials for 70 miles which begin with 7 cents.

(8) That in arriving at the distance which is to determine the rate between any two points, that route should be used, whether by single or joint line, which will produce the lowest rate.

(9) That respondents with circuitous routes may meet the short-line rates at junction points while carrying higher rates to intermediate points, provided that neither the scale to the intermediate point nor the lowest combination is exceeded.

(10) An order requiring cancellation of the suspended tariffs will be entered.

48 I. C. C.

# APPENDIX.

**TABLE 1.**—*Distance class rates for the first five classes applying between Texas points prior to 1895, 1895 to 1902, 1902 to 1916, and the former Shreveport scale.*

100  
 50  
 25  
 12 1/2  
 6 1/4  
 3 1/8  
 1 3/4  
 7/8  
 3/4  
 1/2  
 1/4  
 1/8  
 1/16  
 1/32  
 1/64  
 1/128  
 1/256  
 1/512  
 1/1024  
 1/2048  
 1/4096  
 1/8192  
 1/16384  
 1/32768  
 1/65536  
 1/131072  
 1/262144  
 1/524288  
 1/1048576  
 1/2097152  
 1/4194304  
 1/8388608  
 1/16777216  
 1/33554432  
 1/67108864  
 1/134217728  
 1/268435456  
 1/536870912  
 1/1073741824  
 1/2147483648  
 1/4294967296  
 1/8589934592  
 1/17179869184  
 1/34359738368  
 1/68719476736  
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 1/274877906944  
 1/549755813888  
 1/1099511627776  
 1/2199023255552  
 1/4398046511104  
 1/8796093022208  
 1/17592186044416  
 1/35184372088832  
 1/70368744177664  
 1/140737488355328  
 1/281474976710656  
 1/562949953421312  
 1/1125899906842624  
 1/2251799813685248  
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 1/1152921504606846976  
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 1/18446744073709551616  
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TABLE 3.—*Standard distance scale and jobbers' scale from certain points for traffic within Kansas.*

KANSAS INTRASTATE RATES.

TABLE 4.—*Rates from Kansas City to six points in Oklahoma, and the rates for the same distance under seven scales offered for comparison.*

<sup>1</sup> Short line M., K. & T.  
48 I. C. C.

<sup>2</sup> Scale only extends 450 miles.

- A.—Rates and distance from Kansas City to Oklahoma point named, F. A. Leland's 44-I, I. C. C. 1094.
- B.—Standard distance scale, which has been in effect for several years, applying between points in Kansas on one hand and points in Oklahoma on the other, F. A. Leland's 44-I, I. C. C. 1094, canceled May 1, 1917, by supplement 53 to the tariff.
- C.—Jobbers' scale, in effect several years, applying from Kansas jobbing points to Oklahoma points and from Oklahoma jobbing points to Kansas points, F. A. Leland's 44-I, I. C. C. 1094. This scale was canceled May 1, 1917, by supplement 53 to the tariff.
- D.—Standard distance scale, applying between Oklahoma points on interstate traffic. Santa Fe tariff 8240-C, I. C. C. 7188. This scale was canceled Feb. 1, 1917, by supplement 2 to the tariff, which substitutes scale G, which was suspended in I. & S. 1016.
- E.—Oklahoma intrastate scale, F. A. Leland's tariff 55-C, no I. C. C. number. This scale contested by the carriers and now before the courts.
- F.—Scale between Oklahoma points and Texas points, F. A. Leland's tariff 26-T, I. C. C. 1048. This scale was effective Aug. 1, 1913, under order I. C. C. in Docket 3983, 26 I. C. C., 520, but was canceled by carriers Feb. 1, 1917, and scale G substituted, which scale was suspended in I. & S. 1016.
- G.—Scale between Oklahoma points and Texas points, except in differential territory, and between Oklahoma points on interstate traffic. This scale was suspended in I. & S. Docket 1016. F. A. Leland, Agt., 26-T, I. C. C. 1048, and Santa Fe tariff 8240-C, I. C. C. 7188.
- H.—Scale between Texas points by order of R. R. Commission of Texas. This scale canceled Nov. 1, 1916, by scale G, Fonda tariff 2-B, I. C. C. 33.

TABLE 5.—Statement showing the amounts that the proposed distance class scale between Oklahoma and Texas exceeds the former "Shreveport" scale.

SECTION NO. 1.—SINGLE-LINE RATES.

	Distances.	First-class rate.
(A) Oklahoma-Texas proposed.....	425 miles and over 400.....	<sup>1</sup> 109
(B) Former "Shreveport" scale.....	.....do.....	106
	Difference in cents.....	3
(A) Oklahoma-Texas proposed.....	450 miles and over 425.....	109
(B) Former "Shreveport" scale.....	.....do.....	106
	Difference in cents.....	3

<sup>1</sup> The rates under the classes in the former "Shreveport" scale bear the following percentage relationship to the first-class rate:

1	2	3	4	5	A	B	C	D	E
100	85	70	60	50	52	40	35	30	25

SECTION NO. 2.—JOINT RATES.

(A) Oklahoma-Texas proposed.....	275 miles and over 250.....	108
(B) Former "Shreveport" scale.....	.....do.....	106
	Difference in cents.....	2
(A) Oklahoma-Texas proposed.....	300 miles and over 275.....	108
(B) Former "Shreveport" scale.....	.....do.....	106
	Difference in cents.....	2
(A) Oklahoma-Texas proposed.....	325 miles and over 300.....	111
(B) Former "Shreveport" scale.....	.....do.....	106
	Difference in cents.....	5
	Per cent that "A" is higher than "B".....	5
(A) Oklahoma-Texas proposed.....	350 miles and over 325.....	111
(B) Former "Shreveport" scale.....	.....do.....	106
	Difference in cents.....	5
	Per cent that "A" is higher than "B".....	5

TABLE 5.—Statement showing the amounts that the proposed distance class scale between Oklahoma and Texas exceeds the former "Shreveport" scale—Continued.

SECTION NO. 2—JOINT RATES—Continued.

	Distances.	First-class rate.
(A) Oklahoma-Texas proposed.....	375 miles and over 350.....	114
(B) Former "Shreveport" scale.....	do.....	106
	Difference in cents.....	8
	Per cent that "A" is higher than "B"....	7.5
(A) Oklahoma-Texas proposed.....	400 miles and over 375.....	114
(B) Former "Shreveport" scale.....	do.....	106
	Difference in cents.....	8
	Per cent that "A" is higher than "B"....	7.5
(A) Oklahoma-Texas proposed.....	425 miles and over 400.....	117
(B) Former "Shreveport" scale.....	do.....	114
	Difference in cents.....	3
(A) Oklahoma-Texas proposed.....	450 miles and over 425.....	117
(B) Former "Shreveport" scale.....	do.....	114
	Difference in cents.....	3

(A) Carrier's proposed Oklahoma-Texas two or more lines scale, supplement 57 to Leland's I. C. C. No. 1048.  
(B) Shreveport scale as applied on Texas traffic. Fonda's I. C. C. No. 88.

TABLE 6.—Statement showing specific class rates from Dallas, Tex., to points in panhandle of Texas on Rock Island compared with rates in suspended Oklahoma-Texas scale for same hauls. The second rate given being the rate to differential territory plus the rate in that territory for the differential distance.

	Miles.	Route No.	Rates, class 1.
Amarillo:			
1. Specific Dallas rates.....	<sup>1</sup> 367.7	A	120
2. Oklahoma-Texas same distance.....			126
Soney:			
1. Specific Dallas rates.....	<sup>1</sup> 374.2	B	121
2. Oklahoma-Texas same distance.....			126
Bushland:			
1. Specific Dallas rates.....	<sup>1</sup> 381	B	122
2. Oklahoma-Texas same distance.....			127
Wildorado:			
1. Specific Dallas rates.....	<sup>1</sup> 389	B	123
2. Oklahoma-Texas same distance.....			128
Vega:			
1. Specific Dallas rates.....	<sup>1</sup> 402	B	120
2. Oklahoma-Texas same distance.....			132
Adrian:			
1. Specific Dallas rates.....	<sup>1</sup> 415.8	B	131
2. Oklahoma-Texas same distance.....			132
Glenrio:			
1. Specific Dallas rates.....	<sup>1</sup> 439.3	B	134
2. Oklahoma-Texas same distance.....			136

<sup>1</sup> Indicates mileage over two or more lines.

A.—Tex. & Pac., Ft. Worth, F. W. & D. C.  
B.—Route A, Amarillo, C., R. I. & G.

INVESTIGATION AND SUSPENSION DOCKET No. 1047.

CEMENT TO MONTANA.

*Submitted November 24, 1917. Decided February 4, 1918.*

Proposed increased rates on cement, in carloads, from Kansas producing points to certain destinations upon the Chicago, Burlington & Quincy Railroad in South Dakota, Wyoming, and Montana found not justified; respondents authorized to establish distance rates not in excess of scales III and IV as authorized in *Western Cement Rates*, ante, page 201, recently decided.

*L. C. Mahoney* for Chicago, Burlington & Quincy Railroad Company.

*Cassoday, Butler, Lamb & Foster* for Iola Cement Mills Traffic Association; *E. H. Hogueland* for Dewey Portland Cement Company and Bonner Portland Cement Company; *E. S. Gubernator* for Iola Portland Cement Company; *B. L. Glover* for Fort Scott Hydraulic Cement Company; and *T. L. Philips* and *F. C. Taylor* for Union Sand & Material Company.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

In the tariffs under suspension it is proposed to increase the commodity rates on cement, in carloads, from cement-producing points in the Kansas gas belt and from Bonner Springs, Kans., to various destinations on the Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, in South Dakota, Wyoming, and Montana. The increases appear to range from 1 to 10 cents per 100 pounds. The tariffs carrying these proposed increases also provide for modifications in rates to the same destinations from Colorado producing points. The proposed rates from the Colorado points provided for both increases and decreases. They were not suspended and have become effective.

The carrier states that the purpose of the proposed rates is more properly to align the rates from the various mills to this destination territory. The proposed increases are upon the main line of the Burlington from Nebraska northwesterly through Billings, Mont. At the latter point the present rate is 35 cents per 100 pounds from the Iola district and the proposed rate is 45 cents. The distance is 1,181 miles. The proposed rate yields a revenue of 7.6 mills per ton-mile, and the carrier's witness, in justification of such earning for this distance, refers to our report in *Ash Grove Cement Co. v. A., T. & S. F. Ry. Co.*, 23 I. C. C., 519, wherein a ton-mile earning of 7.8 mills

from the same producing points to Montana destinations, which was under attack in that case, was not disturbed. It is observed, however, that the proposed rate of 45 cents to Billings is carried back through Montana and Wyoming for more than 350 miles, with a gradual increase in the ton-mile earnings, and at many of these points at which it is proposed to apply this 45-cent rate the ton-mile earnings are materially in excess of what was permitted on Montana hauls under our decision in the *Ash Grove Case, supra*. The witness also stated that it was the purpose of this respondent to provide rates from the Kansas mills which were the same as the rates from Mason City and Des Moines, Iowa, and Hannibal and St. Louis, Mo., to these destinations with the La Salle district and Buffington differentially over, and that the balance of the proposed adjustment was being taken care of by other tariffs.

With regard to the traffic moving to the destinations in question, the witness shows that during the fiscal year 1916 out of 443 cars moving to Wyoming destinations, presumably on the Burlington, the Colorado mills furnished 316 cars, and the Kansas gas belt 21 cars; and to Montana destinations out of 88 cars moving in the same period the Colorado mills furnished 40 cars as against the gas belt's 5 cars. It is argued from these figures that the Colorado mills do the greater part of the cement business in the territory in question just as the Kansas mills do the greater part of the business in the eastern half of Nebraska.

The protestants in a series of exhibits call attention to the large percentage increase in the proposed rates, which they claim are 24.8 per cent higher than the existing rates; also to the fact that the proposed rates will in nearly all instances be greater from the Kansas gas belt and Bonner Springs than from Ada, Okla., although the former producing points are intermediate to Ada to the destinations involved; to the further fact that the proposed rates to Burlington destinations are in most cases considerably in excess of rates from the same producing points to destinations in Wyoming and Utah on the Union Pacific Railroad; and furthermore to the fact that there is a more favorable adjustment on plaster from Oklahoma into the same general territory than is proposed under the suspended cement tariffs.

The carrier states in explanation of the situation at Ada that it is the expectation to adjust the rates from Ada to the destinations in question upon a differential over the Kansas gas belt, and that the existing situation whereby Ada takes a lower rate to these destinations is temporary only.

The territory covered by this case is partly included within the territory covered by *Western Cement Rates, ante*, page 201, recently 48 I. C. C.

decided. This case was heard at the close of and immediately following the hearing in that investigation and it was agreed that reference might be made by all parties to the instant case to such portions of the docket in *Western Cement Rates, supra*, as might be considered relevant to the issues in the instant case.

The rates to the destination territory in this case are blanketed for long distances. The adjustment proposed by the carriers would curtail the extent of the blanketed territory. We consider, however, that the carriers have not gone far enough in the process of this curtailment. In *Western Cement Rates, supra*, we authorized a distance scale for cement in carloads to destinations in Kansas, Nebraska, South Dakota, Colorado, and other states, and we consider that an equitable adjustment in the present case, which involves only Burlington destinations in South Dakota, Wyoming, and Montana, would require the continuation of the same scale to the latter points from the points of origin herein involved. Scale IV as prescribed in our report in *Western Cement Rates*, at page 247, *ante*, for application in western Kansas, western Nebraska, Colorado, and South Dakota was suggested by the Burlington, and we are of opinion that it should also be used as a reasonable maximum for the destinations in the instant case. We accordingly find that the rates proposed in the tariffs under suspension have not been justified. The Kansas gas belt and Bonner Springs upon westbound shipments being located within scale III territory, the combination of scales III and IV in *Western Cement Rates, supra*, would therefore afford the proper rates to apply as maxima to the destinations involved in this case.

An order will be entered requiring cancellation of the suspended schedules.

No. 7850.  
F. W. PRENTICE & COMPANY  
v.  
NEW YORK CENTRAL RAILROAD COMPANY.

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*Submitted September 27, 1915. Decided February 6, 1918.*

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First-class rate on screen doors and window screens, in bundles or crates, in less than carloads, from Adrian, Mich., to Toledo, Ohio, found justified. Complaint dismissed.

*F. W. Prentice* for complainants.

*D. P. Connell* for defendant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainants are F. W. Prentice, Clifford A. Stewart, Wallace D. Aspinwall, and William H. Burnham, copartners, engaged in the manufacture of screen doors and window screens at Adrian, Mich., under the name of F. W. Prentice & Company. By complaint, filed March 24, 1915, they allege that defendant's first-class rate of 18 cents per 100 pounds applicable on less-than-carload shipments of screen doors and window screens, in bundles or crates, from Adrian to Toledo, Ohio, is unreasonable, unjustly discriminatory, and unduly prejudicial, and in excess of the rate authorized in the *Five Per Cent Case*, 31 I. C. C., 351; 32 I. C. C., 325. The establishment of a reasonable rate for the future is asked. The allegations of unjust discrimination and undue prejudice were abandoned at the hearing. Rates are stated in cents per 100 pounds. Adrian is 32 miles from Toledo by way of defendant's line, which is the short line between those points. The official classification, which governs, rates screen doors and window screens, flat or nested, in boxes, cleated bundles, or crates, in less than carloads, first class. On October 26, 1914, the first-class rate from Adrian to Toledo was increased from 13 cents to 18 cents.

For defendant it was stated that the rate assailed was included in a tariff carrying rates increased by more than 5 per cent, which tariff the carriers were permitted to file upon representation to the Commission that such increases were necessary in order to properly line up rates between certain points in Indiana and Ohio and points in Michigan in connection with our order in the *Five Per Cent Case*, *supra*, and a revision of the Michigan class rates.

In *C. F. A. Class Scale Case*, 45 I. C. C., 254, in which we formulated scales of reasonable class rates for application between points in central freight association territory generally, a rate of 22 cents was found reasonable as the first-class rate for distances of 35 miles and over 30 miles in the zone in which Adrian and Toledo are located. In *The Fifteen Per Cent Case*, 45 I. C. C., 303, the carriers were permitted to increase this rate 15 per cent. Since the hearing in the instant case the rate attacked has been increased to 25 cents as a result of the cases above cited.

We find that the rate assailed has been justified. In view of the foregoing no finding will be made with respect to the rate for the future.

An order dismissing the complaint will be entered.

48 I C. C.

No. 8298.  
**P. DOUGHERTY COMPANY**  
*v.*  
**BALTIMORE & OHIO RAILROAD COMPANY ET AL.**

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*Submitted September 27, 1916. Decided February 6, 1918.*

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Charges at Baltimore, Md., for trimming bituminous coal in single-deck vessels, with hatch openings of certain sizes, not found to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

*Jos. Townsend England* and *J. C. France, jr.*, for complainant.

*Dudley G. Gray* for Western Maryland Railway Company.

*Shirley Carter, Duncan K. Brent,* and *Charles R. Webber* for defendants.

*Ralph N. Kellam* for intervener.

**REPORT OF THE COMMISSION.**

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the barge and towing business at Baltimore, Md. By complaint, filed September 9, 1915, as amended, it alleges that defendants' charges at Baltimore for trimming bituminous coal in certain of complainant's barges are unreasonable, and unduly prejudicial to the extent that they exceed charges for similar services at Philadelphia, Pa., Norfolk, Va., and New York, N. Y. Reparation is asked on two barges trimmed April 21 and June 9, 1914, and the establishment of reasonable and nondiscriminatory charges for the future. Charles Gring, of Philadelphia, intervened on behalf of complainant. The charges are stated in cents per long ton.

Complainant owns 4 tugs and 20 barges. The barges are single decked and of recognized seagoing type, having a capacity of from 800 tons to 2,500 tons. Their cargoes are of a general nature, consisting of a large amount of bituminous coal in coastwise, harbor, and bay transportation from Baltimore and other ports. Defendants operate coal piers in or near Baltimore harbor as follows: The Baltimore & Ohio Railroad at Curtis Bay, Md., the Philadelphia, Baltimore & Washington Railroad at Canton pier, Baltimore, and the Western Maryland Railway at Port Covington, Md. Cars are so

placed at these piers that the coal may be discharged into the barge through chutes, this operation being known as "dumping." All of complainant's barges have either four or five hatches each, ranging in size from 10 feet square to 13 feet square. As the coal passes through the hatches into the hold it piles in the form of a pyramid. When it reaches such a height as to threaten to close the hatches the dumping is discontinued and the coal is distributed by laborers equipped with shovels. This is called trimming. Trimming is necessary to secure density and the proper distribution of the load. Dumping is included in defendants' rates of transportation to Baltimore; trimming is in addition thereto.

In *New England Coal & Coke Co. v. N. & W. Ry. Co.*, 22 I. C. C., 398, we said that trimming is a necessary service in connection with the transportation of coal by water and when performed by the rail carriers is a part of the delivery; and that the charge therefor is subject to regulation by us and must be published. Following that decision the carriers serving the harbor of Norfolk established charges for that service, and subsequently, in June and July, 1912, the carriers serving the ports of Baltimore, New York, and Philadelphia also established charges therefor.

Defendants' charges at Baltimore for trimming single-deck vessels with deck hatches are as follows:

Single-deck vessels with deck hatch openings equal in area to the following percentages of the area of cargo holds, the area of cargo holds to be ascertained by multiplying the aggregate length of cargo holds by the beam of vessel.

	Rates in cents per 2,240 pounds.
22 per cent and over.....	3
14 per cent and under 22 per cent.....	5
9 per cent and under 14 per cent.....	6
Under 9 per cent.....	7
All other vessels with deck hatches.....	7

The *Maine*, one of the barges on which reparation is asked, was trimmed at Curtis Bay; the other, the *Atlantic*, at Canton. The former is classified under the above tariff rule as a 7 per cent vessel; the latter, a 12 per cent vessel. Charges were collected thereon at the respective rates of 7 cents and 6 cents, legally applicable. Complainant's other barges also range under the classification from 7 per cent to 12 per cent.

Complainant asks for a trimming charge of 4 cents on all barges with hatches classified "under 9 per cent" and "9 per cent and under 14 per cent." That charge is made by the Staten Island Rapid Transit Railway for trimming all kinds of coal in hatch boats and hatch barges, single deck, at St. George coal piers, St. George, Staten Island, N. Y.; by the Pennsylvania Railroad at South Amboy,

N. J.; and at other New York ports served by other coal-carrying roads. A charge of 5 cents per ton is made for trimming bituminous coal in "barges with hatches" by the Pennsylvania at Greenwich piers, Philadelphia; by the Baltimore & Ohio at Jackson street coal pier, Philadelphia; and by the Philadelphia & Reading Railway at Port Richmond piers, Philadelphia. At the date of the hearing and up to August 20, 1917, the following charges were made by the Norfolk & Western for the combined service of dumping, skidding, trimming, and leveling of cargo coal at Norfolk and Lambert's Point, Va., by the Chesapeake & Ohio Railway at Newport News, Va., and by the Virginian Railway at Sewall's Point, Va.: 4.5 cents on vessels for which 10 per cent or under of the cargo is trimmed; 6 cents on vessels for which 20 per cent and over 10 per cent of the cargo is trimmed; and 7 cents on vessels for which 40 per cent and over 20 per cent of the cargo is trimmed. Since August 20, these charges have been increased to 5.5 cents, 7.5 cents, 8.5 cents, respectively. We found in *New England Coal & Coke Co. v. N. & W. Ry. Co., supra*, that the charge of 4.5 cents for the single service of trimming so-called self-trimming barges at Sewall's Point was unreasonable to the extent that it exceeded 3 cents. Complainant's barges are not self-trimming.

Between January 1, 1913, and June 21, 1916, three barges classified "9 per cent and under 14 per cent" and three classified "under 9 per cent," including the *Maine*, were trimmed by the Baltimore & Ohio at Curtis Bay pier; one, the *Atlantic*, by the Philadelphia, Baltimore & Washington at Canton; and none by the Western Maryland at the port of Baltimore. It is stated that another, the *Pacific*, should be included in the number of barges trimmed by the Baltimore & Ohio during the period named, but the record shows that a charge of 5 cents was applied on it and there appears to be a dispute whether it should have taken a charge of 5 cents or 6 cents. That question is not before us. The following table was prepared from exhibits introduced for the Baltimore & Ohio to show the profits and losses from the operations of trimming the six barges at Curtis Bay during the period named:

Name of barge.	Long tons.	Cost of trimming.	Revenue from trimming.	Expense per long ton.	Profit per long ton.	Loss per long ton.
				Cents.	Cents.	Cents.
Luzon.....	2,146	<sup>1</sup> \$92.97	\$128.76	4.33	1.67	.....
Eugene Hooper.....	1,246	<sup>1</sup> 75.14	74.76	6.03	.....	0.03
Mattie Johnson.....	1,199	<sup>1</sup> 80.31	71.95	6.70	.....	.70
Maine.....	2,005	<sup>2</sup> 128.56	140.35	6.41	.59	.....
T. J. Hooper.....	1,206	<sup>1</sup> 88.18	84.42	7.31	.....	.31
Seneca.....	3,305	<sup>2</sup> 212.75	231.40	6.44	.56	.....

<sup>1</sup> Based on a charge of 6 cents.

<sup>2</sup> Based on a charge of 7 cents.

The cost of trimming the *Atlantic* was not shown, it being stated for the Philadelphia, Baltimore & Washington that trimming is done for that carrier under contract, the contractor being paid the tariff rates, less 10 per cent for collection. That carrier and the Western Maryland rely on the cost figures introduced by the Baltimore & Ohio as representative of the cost of the service. This cost is made up of four items: (1) Labor, (2) superintendence, (3) street car fare of laborers, and (4) tools. Under the first item is included the pay of the laborers and their leaders, the former receiving 23 cents per hour and the latter 28 cents. Since these barges were trimmed wages have advanced to some extent. The number of hours required to load each barge, arrived at by dividing the total cost of this item by the hourly wages paid, were approximately: *Luzon*, 310 hours; *Eugene Hooper*, 264 hours; *Mattie Johnson*, 272 hours; *Maine*, 486 hours; *T. J. Hooper*, 318 hours; and *Seneca*, 808 hours. It is said that the *Eugene Hooper* and the *T. J. Hooper* are very similar to the type of barges owned by complainant; the *Luzon* is a deeper barge than complainant's and therefore can be trimmed at less expense. The difference in cost of trimming the different barges depends almost entirely upon the type of the barge, and while the actual work of trimming the same type of barge at different ports is substantially the same it is obvious that the larger the hatch openings and the deeper the barges the less labor is required in trimming. One-half of the cost of superintendence, made up of the salaries of the agent of the pier, his office force, and foremen, is charged to trimming; the remainder to dumping. This cost is apportioned against each barge on a tonnage basis. The third item consists of the car fare of 10 cents per day of each laborer employed in trimming the barges. It appears that in some instances the entire 10 cents per day may not be properly chargeable against the particular barge indicated, as some of the workmen may have been employed for a part of the day in trimming other vessels. However, it does not appear that this discrepancy would materially affect the cost figures. A special train is now run from Baltimore to Curtis Bay to accommodate these laborers, but it is stated that the cost is about the same as formerly. A charge for tools, ranging from 35 cents to 70 cents per barge, constitutes the fourth item.

For complainant it is urged that the cost of trimming the barges named in the above table is far in excess of that ordinarily required to trim its barges. Complainant's evidence shows the tonnage of the barges classified between 14 per cent and 9 per cent and the time consumed in trimming their cargoes during the last few years at Norfolk, Sewall's Point, or Lambert's Point, as follows: *Merrimac*, 1,144 long tons, 72 labor hours; *Merrimac*, 1,243 long tons, 126 labor

hours; *Potomac*, 1,588 long tons, 127 labor hours; *Georgia*, 2,492 long tons, 120 labor hours; *Wilmington*, 2,397 long tons, 324 labor hours; and *Wilmington*, 2,489 long tons, 300 labor hours. Based on these figures, the average time is said to be 120 labor hours for trimming 1,500-ton barges and 240 labor hours for trimming 2,500-ton barges. Evidence was introduced for complainant to show that barges classified under 9 per cent, which would take a 7-cent charge at Baltimore, were trimmed as follows: Barge *Monocacy* at Sewall's Point, 1,742 long tons in 148 labor hours; and barge *Severn* at Curtis Bay, 1,300 long tons in 180 hours.

It appears that in certain instances it took 100 per cent more labor hours to trim barges at Baltimore than at the other points mentioned for complainant, but, with the exception of the *Severn*, there is no evidence to show that any of the barges concerning which complainant's labor hours are given were ever trimmed at Baltimore. We are of the opinion that this evidence is not sufficient to warrant our concluding that the cost figures introduced for defendants are substantially inaccurate in that they represent longer labor hours than the circumstances and conditions at Baltimore justify.

It is stated for complainant that 2½ cents per long ton is paid to the trimmers as wages at Norfolk harbor points, and that if this basis of wages were adopted at Baltimore there would be sufficient profit in the trimming business for defendants at a charge of 4 cents on barges of the type in issue. It is not shown, however, that labor can be employed at Baltimore at the wages suggested.

For the purpose of disclosing a profit under low trimming charges, including the 4-cent charge on single-deck barges with hatches, there were introduced for complainant statistics from the annual reports of the Staten Island Rapid Transit, filed with us, showing the receipts, expenditures, and substantial profits from the operation of St. George coal piers at St. George for the fiscal years of 1910, 1911, 1912, 1913, and 1914. But it appears that from 80 per cent to 85 per cent of these revenues are from operations other than trimming, such as towing and docking, and that no separate cost figures are kept to show the cost of trimming vessels at that point. Complainant showed that the 7-cent dumping, skidding, and trimming charge is applied on many of its barges at Norfolk harbor piers; that 3½ cents of that charge is for trimming, although not published separately for that service; and introduced statistics from the annual reports to the Commission of the Virginian Railway disclosing profits ranging from about \$51,000 to \$69,000 derived from the trimming service at Sewall's Point, a Norfolk harbor pier, for the fiscal years of 1911, 1912, 1913, and 1914. As the trimming service at that point embraces trimming of all classes of vessels at charges ranging as high as 18 cents, and in some cases higher, these data are not helpful.

It is also contended for complainant that the charges for trimming its barges at Baltimore are unduly prejudicial as compared with the charges contemporaneously in effect for trimming all classes of barges with hatches at New York and Philadelphia. It is explained that complainant is a private carrier; that it has no established rates of transportation; that frequently it contracts to bear the cost of trimming while charging the shipper the contract rate of transportation from port to port; that while it is not engaged in the coal business it is interested in defendants' charges for trimming. The establishment at Baltimore of the 4-cent charge that applies at New York is urged in order to remove the alleged undue prejudice. For defendants it is stated that they have never trimmed any barges of the type of complainant's at New York or Philadelphia; and that if such a business should develop at those points it would be necessary to increase their charges for that class of business; that the barges trimmed at New York and Philadelphia are principally open barges constructed especially for the expeditious handling of coal and that barges of the type of complainant's could not be handled at some of the New York piers on account of their height. The 4-cent charge at New York and the 5-cent charge at Philadelphia, it is said, were established to cover adequately the cost of trimming the types of barges handled at those points and that the present charges at Baltimore on barges of the type owned by complainant produce a very small revenue on a meager volume of business. Since a charge for trimming has been published in defendants' tariffs at New York and Philadelphia only three of complainant's barges have been trimmed at those points; one by the Philadelphia & Reading at Port Reading, N. J., on January 25, 1916, at the 4-cent charge; two at Philadelphia in 1913 apparently by the Philadelphia & Reading, at the 5-cent charge; and one at Philadelphia on February 23, 1915. The charge or the name of the carrier that performed the latter service is not in evidence.

We find that the charges assailed are not shown to have been or to be unreasonable or unduly prejudicial.

An order dismissing the complaint will be entered.

48 I. C. C.

No. 8903.

HARRY L. SCHLESINGER

v.

CENTRAL OF GEORGIA RAILWAY COMPANY ET AL.

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*Submitted October 22, 1916. Decided February 6, 1918.*

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Rate charged on glucose paste, in less than carloads, from New York, N. Y., to Atlanta, Ga., found to have been legally applicable and not shown to have been or to be unreasonable. Complaint dismissed.

*E. B. Caldwell* for complainant.

*Willis H. Fowle* for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a manufacturer of confectionery at Atlanta, Ga. By complaint filed May 1, 1916, he alleges that defendants' rate of 86 cents per 100 pounds on glucose paste, in less than carloads, from New York, N. Y., to Atlanta is unreasonable to the extent that it exceeds 48 cents. Reparation is asked on shipments moving subsequent to July 1, 1915, and the establishment of a reasonable rate for the future. Rates are stated in cents per 100 pounds.

Glucose paste consists of glucose and a small percentage of egg albumen and other ingredients which are not disclosed. It is used as a candy filler. The rate charged on complainant's shipments was the third-class rate, governed by the southern classification, applicable on "confectioners' paste, not otherwise indexed by name, in bulk in barrels."

Complainant contends that glucose paste is not confectioners' paste, but is made of different ingredients and is of a lower value; and that the southern classification provides no rating on it. In view of the large percentage of glucose contained therein, complainant contends that a reasonable rate on the article shipped should not exceed the commodity rate of 48 cents applicable on molasses and sirup, including glucose sirup, in less than carloads, over defendants' lines from New York to Atlanta. It was testified that glucose paste is worth about 4½ cents per pound, which is stated to be less than 1 cent in excess of the value of molasses or sirup. Complainant mentioned an article known as almond paste which is worth 27 cents a pound. It appears, however, that this article is not included

under the head of confectioners' paste, but is specifically rated first class, in less than carloads, in the southern classification. Glucose paste moves in barrels, but complainant offered no evidence as to the weight per barrel. Defendants' witness testified that one variety of confectioners' paste weighed about 450 pounds per barrel and that the weight of glucose was approximately 725 pounds per barrel. Complainant calls attention to the fact that the western classification provides less-than-carload ratings of second class on confectioners' paste and third class on glucose paste. This classification also rates glucose, in barrels, fourth class, in less than carloads. The official classification rates confectioners' paste, in barrels, third class, in less than carloads, and prior to January 1, 1916, rated glucose, in barrels, fourth class, in less than carloads. Since that date it has carried no rating on glucose, nor does it provide a specific rating on glucose paste.

It was testified for defendants that there are a number of varieties of confectioners' paste made of glucose mixed with various other ingredients, such as condensed milk, starch, gelatine, flour, and egg albumen, which range in value up to 15 cents per pound and possibly somewhat higher; and urged that glucose paste is nothing more than a low grade of confectioners' paste; that it is used for the same purpose; and that there is no proper basis for according it a lower rating than other varieties of confectioners' paste. There were cited for defendants various articles in the manufacture of which glucose is used, such as pie filling, worth 10 cents per pound, and jellies and preserves, worth 3 cents per pound, which the southern classification rates third class, in barrels, in less than carloads. Glucose, in barrels, was rated fifth class, any quantity, in the southern classification prior to August 1, 1917, since which date no rating has been provided. It was stated for defendants that the former rating was established many years ago under conditions materially different from those existing at the present time, and that it is not properly comparable with the rate on confectioners' paste. With respect to the commodity rate cited by complainant on molasses and sirup from New York to Atlanta, defendants observe that these are staple commodities which move in large volume, and that the commodity rate mentioned was made with relation to the rates on the same articles from New Orleans, La., to Atlanta.

We find that the rate assailed was legally applicable and that it is not shown to have been or to be unreasonable. An order dismissing the complaint will be entered.

No. 8910.  
C. F. EWING & COMPANY  
*v.*  
SPOKANE INTERNATIONAL RAILWAY COMPANY ET AL.

*Submitted November 8, 1916. Decided February 6, 1918.*

1. Charges applicable on a carload of cedar poles from Bayview, Idaho, to Whiting, Ind., not found to have been unreasonable or unduly prejudicial.
2. Shipment found to have been misrouted by initial carrier.

*E. M. Fronk* for complainant.

*F. D. Allen* for Spokane International Railway Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company; and Canadian Pacific Railway Company.

*A. H. Lossow* for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the lumber business at Sand Point, Idaho. By complaint, filed May 23, 1916, it alleges that the rate assessed on a carload of cedar poles, shipped December 30, 1913, from Bayview, Idaho, to Whiting, Ind., was unreasonable and unduly prejudicial, and that the weight on which the charges were based, and the demurrage charges assessed at destination, were illegal. There is also an allegation of misrouting. Reparation is asked. The claim was presented to the Commission informally November 2, 1915. Rates are stated in cents per 100 pounds.

The shipment, consisting of 72 cedar poles, 40 feet long, was routed for complainant over the Spokane International Railway to Eastport, Idaho, Canadian Pacific Railway, Minneapolis, St. Paul & Sault Ste. Marie Railway, hereafter called the Soo line, and Baltimore & Ohio Chicago Terminal Railroad beyond, over which route a joint rate of 52 cents applied. The agent of the initial carrier inserted in the bill of lading "Leithton, E. J. & E." immediately preceding the carrier last named in complainant's routing instructions, and the shipment moved over the latter route. Charges appear to have been collected in the sum of \$338.80 based on a rate of 52 cents and a weight of 64,000 pounds plus a demurrage charge of \$6. The rate

legally applicable was 53.5 cents, based on a joint rate of 52 cents to Chicago, Ill., plus a switching charge of 1.5 cents per 100 pounds beyond, so that the shipment was undercharged 1.5 cents per 100 pounds. Under agent Lowery's tariff I. C. C. No. 17, to which the Soo line is a party, the Chicago rates were made applicable to Whiting, Baltimore & Ohio Chicago Terminal delivery, but the Elgin, Joliet & Eastern is not a party to this tariff and there is no provision for the absorption by this carrier of the switching charges of the Baltimore & Ohio Chicago Terminal. Defendants have presented a bill in the sum of \$3.12 for an additional weight of 600 pounds, but the record is not clear as to whether or not this has been paid.

It is contended on behalf of complainant that the weight of the shipment was 61,200 pounds, an average weight of 850 pounds for each of the 72 poles. Complainant placed a notation on the bill of lading "shipper's estimate 3,000# to 5,000# snow on top of load," and it is insisted that there were 3,400 pounds of snow on the shipment when it was loaded for which a deduction should be made from the weight. The evidence is conflicting as to whether there was any snow on the shipment at that time, and no evidence was introduced to show the amount of snow on the shipment, if any, when the weight was ascertained at destination. The car was weighed loaded at Hammond, Ind., and light at Gary, Ind., the weights so obtained being, gross, 98,000 pounds; tare, 32,900 pounds; net, 65,100 pounds. The shipment was also weighed at Eastport and at Minneapolis, Minn., showing in each instance a weight of 64,000 pounds, based on a net scale weight of 64,500 pounds, less 500 pounds for stakes. It was again weighed at Joliet, Ill., showing a net weight of 65,200 pounds, based on a net scale weight of 65,700 pounds, less 500 pounds for stakes. The net weights were ascertained at Eastport, Minneapolis, and Joliet by using the marked tare weight of the car and apparently were not as accurate as the net weight obtained by weighing the empty car at Gary. We find, therefore, that the net weight of the shipment, without any allowance for dunnage, was 65,100 pounds. An allowance of 500 pounds for stakes is provided under the 52-cent rate to Chicago, and also under the 1.5-cent rate of the Baltimore & Ohio Chicago Terminal, leaving a weight of 64,600 pounds, upon basis of which charges should have been assessed.

Demurrage of \$6 accrued at destination on account of the consignee's contention that the shipment had been misrouted and its refusal to pay charges at a rate higher than 52 cents. When this amount of demurrage had accrued the delivering line consented to deliver the shipment on the basis of the 52-cent rate plus the accrued demurrage, with the understanding that the matter of misrouting would be settled later. The demurrage charges thus accrued

during the pendency of a dispute as to the lawful rate, and as the consignee refused to pay the rate legally applicable over the route of movement, they were properly assessed. *Conf. Rulings 32 and 220e; Peller v. P. R. R. Co.*, 40 I. C. C., 84. The legal charges over the route of movement, including the demurrage, were therefore \$351.61. The record is not clear as to whether complainant has paid \$338.80 or \$341.92, and we are unable to determine whether the outstanding undercharges are \$12.81 or \$9.69.

No evidence was offered in support of the allegations of unreasonableness or undue prejudice.

We find that the charges legally applicable over the route of movement are not shown to have been unreasonable or unduly prejudicial, but that the Spokane International Railway Company misrouted the shipment. The charges legally applicable over the route by which the shipment should have moved were \$335.92 plus \$6 demurrage, or a total of \$341.92, to the basis of which the outstanding undercharges may be waived. The Spokane International Railway Company should make settlement with its connections on the basis of the rate legally applicable over the route of movement in view of the fact it was responsible for the misrouting. Upon advice that the matters concerned have been adjusted in the manner suggested the complaint will be dismissed.

48 I. C. C.

No. 8648.  
SAND POINT LUMBER & POLE COMPANY  
*v.*  
NORTHERN PACIFIC RAILWAY COMPANY ET AL.

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*Submitted November 11, 1916. Decided February 6, 1918.*

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Upon complaint attacking rate on cedar poles from Culver, Idaho, to Spokane, Wash., in a single car and thence to Twin Falls, Idaho, in conjunction with an "idler" car; *Held*, That neither the rate legally applicable nor that on single cars is shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

*E. M. Fronk* for complainant.

*W. J. Quick* for Northern Pacific Railway Company.

*H. A. Scandrett* and *A. C. Spencer* for Oregon-Washington Railroad & Navigation Company and Oregon Short Line Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the lumber business at Sand Point, Idaho. By complaint, filed February 15, 1916, it alleges that the rate charged on a carload of cedar poles, shipped February 2, 1915, from Culver, Idaho, to Twin Falls, Idaho, by way of Spokane, Wash., was unreasonable and unduly prejudicial. Reparation is asked and the establishment of a reasonable rate for the future. Rates are stated in cents per 100 pounds.

The shipment consisted of cedar poles 45 feet long, for which, in compliance with complainant's written request, defendants furnished a car 44 feet 6 inches long. The shipment was loaded by complainant at Culver, a nonagency station on the Northern Pacific Railway, 3 miles east of Kootenai, Idaho, and moved as routed over the Northern Pacific to Spokane, and beyond over the lines of the Oregon-Washington Railroad & Navigation Company and Oregon Short Line Railroad. At Spokane the Oregon-Washington attached an "idler" car to insure the safe transportation of the poles, which extended over the end sill of the car. Charges were collected in the aggregate sum of \$340.60, \$40.30 to Spokane and \$300.30 beyond. The charges to Spokane are said to have been assessed at a rate of 7 cents, and an estimated weight of 67,000 pounds based on a scale weight of 67,700

pounds obtained at Kootenai, less an allowance of 700 pounds for snow. The rate legally applicable from Culver to Spokane was a commodity rate of 8 cents, minimum 40,000 pounds. Defendants' tariffs provided for a deduction of 500 pounds for stakes used in connection with shipments of poles on flat cars from Culver to Twin Falls, but it does not appear whether such a deduction was made. Assuming that it was, there would remain a net weight of 66,500 pounds on which the charges at 8 cents to Spokane would have been \$53.20. We are unable to determine on this record the correct weight upon which charges should have been collected for the movement from Culver to Spokane, but apparently the shipment was undercharged. The charges from Spokane to destination were based on a rate of 45½ cents, minimum 66,000 pounds, 33,000 pounds for each car used. The net weight of the shipment, as ascertained at Huntington, Oreg., was 63,870 pounds based on a net scale weight of 64,620 pounds, less 500 pounds for stakes and 250 pounds for chains. The Oregon Short Line's tariffs provided for the collection of charges on carload shipments of poles to Twin Falls, passing through Huntington, on the basis of the weight ascertained at Huntington when there was a variance of 1,000 pounds or more between the weights so ascertained and the point of origin weights.

A question is raised as to whether the rate of 45.5 cents, minimum 66,000 pounds, was legally applicable for the movement from Spokane to destination, and whether the Oregon-Washington was justified in attaching the "idler" car at Spokane. When the shipment moved, the rate on cedar poles over 40 feet in length in single cars from Spokane to Twin Falls was 35½ cents, minimum 50,000 pounds. Defendants' tariffs provided that where it was necessary, on account of the length of the poles, to attach an "idler" car the rate on the two cars from Spokane to Twin Falls would be 45½ cents, minimum 66,000 pounds, 33,000 pounds for each car, and specifically referred to the rules of the Master Car Builders' Association. The rules of that association, governing the loading of lumber, logs, etc., provide:

Lading on single cars must never project over end sill of car, unless such overhang is protected by an idler or carrying car forming part of a group of cars, except when this projection is 6 feet 6 inches or more above top of rail and does not overhang end sill more than 6 inches.

Also that the car be so loaded that one hand brake be accessible and operative and that there must be at least 6 inches between the brake wheel and lading. Apparently the shipment extended over the end sill of the loaded car at least 6 inches at a height less than 6 feet 6 inches above the rail. While the rules referred to are directory rather than mandatory, in actual practice loading must be performed in a manner satisfactory to inspectors of each road, and

where delivery is made by one road to another the loading must be approved by inspectors of the receiving road. *National Lumber Dealers' Asso. v. A. C. L. R. R. Co.*, 14 I. C. C., 154. The rate of 45½ cents, minimum 66,000 pounds, was legally applicable for the movement from Spokane to Twin Falls.

Complainant also contends that the through rate charged was unreasonable and unjustly discriminatory to the extent that it exceeded 35½ cents, which rate it asks to have established from Culver to Twin Falls applicable on cedar poles on single cars moved separately or in conjunction with an "idler" car. When the shipment moved, the rate on cedar poles in single carloads from Culver to Twin Falls was 43½ cents, composed of 8 cents to Spokane and 35½ cents beyond. A joint rate of 50½ cents applied on carload shipments of cedar poles requiring an "idler" car in addition to the carrying car from and to the same points over the Northern Pacific to Silver Bow, Mont., and the Oregon Short Line beyond. Complainant could have availed itself of this rate by routing the shipment accordingly. A rate of 35½ cents on cedar poles in single cars from Coeur d'Alene, Idaho, to Twin Falls is cited. Coeur d'Alene is about 45 miles nearer Spokane than is Culver. A single carload rate of 33 cents applied on cedar poles from Culver to Pocatello, Idaho, by way of Silver Bow, and a rate of 43 cents when an "idler" car was required.

For defendants it is contended that the legal rates over the route of movement were and are reasonable; that the additional rate for the use of an idler car is justified, as their equipment in "idler-car" service is deprived of its full efficiency; and that additional risk is created in transporting such cars. It is pointed out that the rule as to the minimum on shipments of poles requiring an "idler" car is more liberal than the rule in the western classification governing the use of two cars, which requires the application of the minimum applicable on each car used.

We find that neither the rate charged nor that applicable on single cars is shown to have been or to be unreasonable or unduly prejudicial. The complaint will be dismissed.

No. 8944.

M. G. RANKIN & COMPANY

v.

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY  
COMPANY ET AL.

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*Submitted September 8, 1916. Decided February 6, 1918.*

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Rate legally applicable on a carload of cottonseed meal from Eldorado, Ark., to Colfax, Wis., not shown to have been unreasonable or unduly prejudicial. Shipments found to have been overcharged and refund directed. Complaint dismissed.

*George A. Schroeder* for complainants.

*H. B. Ramsey* for defendants.

#### REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainants are Maynard G. Rankin and Chester B. Pierce, copartners, engaged in the grain and feed business at Milwaukee, Wis., under the name of M. G. Rankin & Company. By complaint, filed June 10, 1916, they allege that the charges collected by defendants on a carload of cottonseed meal shipped in February, 1915, from Eldorado, Ark., to Colfax, Wis., were unreasonable and unjustly discriminatory. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment was routed "Rock Island & I. C. via Chicago c/o Soo line" and moved over the Chicago, Rock Island & Pacific Railway to Memphis, Tenn.; Illinois Central Railroad to Chicago, Ill., and the Minneapolis, St. Paul & Sault Ste. Marie Railway, hereinafter called the Soo line, to destination. The Illinois Central is not a party defendant. Charges were collected in the sum of \$183.04, based on a rate of 44 cents and a weight of 41,600 pounds. The legally applicable rate was 36½ cents, composed of a joint rate of 24 cents to Chicago and a rate of 12½ cents beyond, so that the shipment was overcharged 7½ cents per 100 pounds.

Complainants assert that the correct weight of the shipment was 40,000 pounds. They admit they did not weigh the shipment but state that it consisted of 400 100-pound sacks and introduced the invoice of the party from whom they purchased the shipment showing that settlement was made upon the basis of 20 tons. Defendants

offered in evidence the record of the weighmaster at point of origin, which shows that the gross weight was 77,000 pounds, tare weight 36,400 pounds, and net weight 41,600 pounds. It is admitted that a clerical error was made in the net weight, 40,600 pounds being the correct weight. We find complainants' evidence insufficient to warrant a finding that 40,600 pounds, the weight of the shipment as shown by defendants' records made at the time, was incorrect. The charges on a weight in excess of 40,600 pounds are illegal and should be refunded to the party properly entitled thereto, together with the overcharges resulting from the assessment of an erroneous rate.

Colfax is a local station on the Soo line, 90 miles east of Minneapolis, to which point it is intermediate over the route of movement. Complainants contend that the rate charged was unreasonable to the extent that it exceeded 27 cents, the rate contemporaneously applicable on cottonseed meal, in carloads, over the Chicago, Rock Island & Pacific from Eldorado to Minneapolis, Minn. This rate did not apply through Memphis, Chicago, and Colfax, and was only applicable over the line of the Chicago, Rock Island & Pacific direct. On May 31, 1917, a rate of 27 cents was established from Eldorado to Colfax on shipments routed by way of Hulbert, Ark., the St. Louis & San Francisco Railroad, and St. Louis, Mo., but it does not apply over the route of movement, and the unreasonableness of the rate legally applicable on the shipment is not established by the mere showing that a lower rate is in effect over another route.

We find that the rate legally applicable on the shipment is not shown to have been unreasonable or unduly prejudicial. An order will be entered dismissing the complaint.

48 I. C. C.

No. 8979.  
**OHIO SALT COMPANY**  
*v.*  
**BALTIMORE & OHIO RAILROAD COMPANY ET AL.**

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*Submitted January 15, 1917. Decided February 6, 1918.*

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Carload of salt from Rittman, Ohio, to Iron River, Mich., found to have been misrouted. Refund directed.

*W. J. Tomkins* for complainant.

*C. D. Clark, J. F. McWilliams, and Charles R. Webber* for Baltimore & Ohio Railroad Company.

*J. A. Stevenson* for Mutual Transit Company.

**REPORT OF THE COMMISSION.**

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the salt business, with its principal office at Wadsworth, Ohio. By complaint, filed June 17, 1916, it alleges that the rate of 29 cents per 100 pounds charged by defendants on a carload of salt shipped in August, 1913, from Rittman, Ohio, to Iron River, Mich., was unreasonable to the extent that it exceeded a rate of  $18\frac{1}{2}$  cents per 100 pounds. Reparation is asked. The claim was presented to the Commission informally January 30, 1915. Rates are stated in cents per 100 pounds.

The shipment was tendered to the Baltimore & Ohio Railroad at Rittman on a bill of lading in which complainant had inserted routing by way of "Mutual Transit Co.-N. P." and a rate of  $20\frac{1}{2}$  cents. The shipment weighed 50,080 pounds, and moved over the lines of the Baltimore & Ohio to Cleveland, Ohio; Mutual Transit Company to Duluth, Minn.; Northern Pacific Railway to Ashland, Wis.; and Chicago & North Western Railway beyond. Charges were collected thereon in the sum of \$145.21, at the legally applicable rate of 29 cents, based on the aggregate of the intermediate rates to and from Duluth. The rate of  $20\frac{1}{2}$  cents named in the bill of lading was not applicable over any route. A combination rate of  $18\frac{1}{2}$  cents was applicable by way of the Baltimore & Ohio to Cleveland, Mutual Transit to Green Bay, Wis., and Chicago & North Western beyond, composed of a rate of 4 cents to Cleveland and a rate of  $14\frac{1}{2}$  cents beyond.

Defendants contend that the shipment was not misrouted, and deny that the rate charged was unreasonable. Defendant Baltimore & Ohio also urges that the rates beyond Cleveland were not and could not be known to its agent at Rittman. But that agent should not have accepted the bill of lading with both route and rate inserted until, if unable to check them from his station files, he had confirmed them upon inquiry from appropriate sources. The conflict between the routing instructions and the rate named made it the duty of the initial carrier to obtain further and definite instructions from the consignor, and its failure to perform this duty renders it liable for the additional charges resulting from the misrouting. *Union Saw Mill Co. v. St. L., I. M. & S. Ry. Co.*, 40 I. C. C., 661, 665.

We find that the rate over the route of movement is not shown to have been unreasonable, but that the defendant Baltimore & Ohio Railroad Company misrouted the shipment. The record does not clearly show that complainant paid and finally bore the charges on the shipment in question, and no order will be entered; but the last-named defendant will be expected to refund to the party entitled thereto the difference between the charges collected and those that would have accrued at the rate of 18½ cents per 100 pounds contemporaneously applicable by way of Green Bay, being \$52.56, with interest.

48 I. C. C.

No. 8986.<sup>1</sup>

P. E. SHARPLESS COMPANY

v.

PHILADELPHIA, BALTIMORE & WASHINGTON  
RAILROAD COMPANY ET AL.

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*Submitted May 18, 1917. Decided February 6, 1918.*

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Following *Hires Condensed Milk Co. v. P. R. R. Co.*, 38 I. C. C., 441, the official classification third-class rates on less-than-carload shipments of evaporated and condensed milk, liquid, in cans, boxed, found to have been unreasonable to the extent that they exceeded rates applicable under rule 28. Reparation awarded.

*Allen S. Olmsted, 2d, and Thomas Raeburn White* for complainants.

*W. L. Kinter* for Philadelphia & Reading Railway Company; Atlantic City Railroad Company; Philadelphia, Newtown & New York Railroad Company; and Central Railroad Company of New Jersey.

*Parker McCollester* for New York Central Railroad Company.

*W. C. Carpenter and Henry Wolf Bikelé* for Philadelphia, Baltimore & Washington Railroad Company; Pennsylvania Railroad Company; and New York, Philadelphia & Norfolk Railroad Company.

#### REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainants are corporations engaged in the manufacture and sale of evaporated and condensed milk at Mill Hall and Philadelphia, Pa. By complaints, filed June 24, 1916, and January 4, 1917, they allege that defendants' third-class rates, governed by the official classification, on numerous less-than-carload shipments of evaporated and condensed milk, liquid, in metal cans, in barrels or boxes, forwarded from various manufacturing or distributing points, such as Mill Hall, Philadelphia, Concordville, and Troy, Pa., and Rising Sun, Md., to various points in official classification territory during the two-year period immediately preceding the filing of each complaint, were unreasonable and unjustly discriminatory to the extent

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<sup>1</sup> The report also embraces No. 9416, *Continental Condensed Milk Company v. Philadelphia, Baltimore & Washington Railroad Company et al.*

that they exceeded rule 26 rates, 20 per cent less than third class, contemporaneously applicable from and to the same points. Reparation is asked.

The shipments moved over defendants' lines. Charges were apparently assessed thereon at the third-class rates, legally applicable. After the shipments moved, defendants provided, by exception to the official classification, for the application of rule 26 rates to less-than-carload shipments of evaporated or condensed milk, liquid, in metal cans, in barrels or boxes. These rates, which are still in effect, are satisfactory to complainants, and their only interest in this case is with respect to reparation.

Complainants rely upon *Hires Condensed Milk Co. v. P. R. R. Co.*, 38 I. C. C., 441, in which we found that the third-class rates in official classification territory on condensed or evaporated milk (liquid) in less than carloads were, and for the future would be, unreasonable to the extent they exceeded or might exceed the rates applicable under rule 26, and awarded reparation.

No testimony was introduced for defendants, but a copy of their brief in the *Hires Case* was submitted. Their arguments in opposition to a finding in favor of complainants in these cases are in line with the contentions made in the petition for reargument in the *Hires Case* on the question of reparation, which petition was denied.

Following that case, and upon this record, we find that the rates assailed were unreasonable to the extent that they exceeded the rates contemporaneously applicable under rule 26 on less-than-carload shipments; that complainants made the shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that they have been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable; and that they are entitled to reparation, with interest. The exact amount of reparation due can not be determined on the present record, and complainants should prepare statements showing the details of their shipments in accordance with rule V of the Rules of Practice, which statements should be submitted to defendants for verification. In the interest of simplicity, a separate statement should be presented for each route. Upon receipt of statements so prepared and verified we will consider the entry of an order awarding reparation.

As the rates herein found reasonable have been in effect for more than a year, no order for the future is necessary.

No. 9127.  
**EL PASO IRON & METAL COMPANY**  
*v.*  
**GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY  
COMPANY ET AL.**

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*Submitted February 25, 1917. Decided February 6, 1918.*

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Charges on a mixed carload of bat guano and bones from El Paso, Tex., to Los Angeles, Cal., not shown to have been unreasonable. Complaint dismissed.

*Rufus B. Daniel* for complainants.

*H. C. Hallmark, G. D. Squires, Elmer Westlake, and F. B. Austin* for defendants.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**By Division 3:**

Complainants are Theodore Ehrenberg, M. Feinberg, and I. Feinberg, copartners, engaged in the junk business at El Paso, Tex., under the name of El Paso Iron & Metal Company. By complaint filed July 24, 1916, they allege that the charges collected by defendants on a mixed carload of bat guano and bones in bulk shipped in August, 1915, from El Paso to Los Angeles, Cal., were unreasonable. They ask reparation and the establishment of a reasonable mixed carload rate for the future. Rates are stated in cents per 100 pounds.

The shipment consisted of 27,069 pounds of so-called bat guano and 4,800 pounds of bones, the latter in bulk. The record does not show whether the bat guano was also in bulk. No rates were provided for a mixed carload of these commodities, nor were the less-than-carload rates applicable on shipments in bulk. Charges were collected in the sum of \$215.55, at the applicable carload rates of 40 cents, minimum 30,000 pounds, on the guano, and 36.75 cents, minimum 26,000 pounds, on the bones. Subsequent to the movement of the shipments the minimum on guano was increased to 40,000 pounds, but was later reduced to the present minimum of 30,000 pounds. The minimum on bones is now 40,000 pounds.

The agent of the initial line informed complainants that the two commodities could be loaded into one car and shipped at the carload rate of 40 cents applicable on bat guano. But the misquotation of a rate affords no basis for an award of reparation.

Bones are used in the manufacture of fertilizer and bat guano is a natural fertilizer. No difficulty is experienced in making carload shipments of bones, but it is difficult for complainants to make straight carload shipments of bat guano, which is usually received by them from Mexico in lots of from 6 tons to 8 tons. The record does not show the quantity of the bat guano shipped out of El Paso by complainants, but they shipped 180 carloads of bones during a period of 12 months.

The establishment of the mixed carload rate asked is resisted by defendants. They showed that bones are used in the manufacture of buttons, glue, and prepared poultry food, as well as for fertilizer, while bat guano is used solely as a fertilizer; that considerable quantities of bones and guano move from the border stations; that there is no general demand for a mixed carload rate on these commodities; and that it would not be of advantage to shippers of bones on account of the different uses to which that commodity is put.

There appears to be no commercial or public necessity for the establishment of the mixed carload rate asked, and, no evidence having been adduced to show that the charges collected were unreasonable *per se*, an order dismissing the complaint will be entered.

48 I. C. C.

No. 9156.

WILLIAM M. ROYLANCE COMPANY

v.

DENVER & RIO GRANDE RAILROAD COMPANY ET AL.

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*Submitted April 20, 1917. Decided February 6, 1918.*

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Minimum weight of 26,000 pounds applied on certain carloads of peaches from Utah points to eastern destinations prior to September 10, 1914, found to have been legally applicable, and not shown to have been unreasonable. Complainant not shown to have been damaged by the undue prejudice or unjust discrimination alleged. Complaint dismissed.

*Hal R. Lebrecht and A. J. Bolinger* for complainant.

*J. G. McMurry* for Denver & Rio Grande Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation dealing in fruits and produce at Provo, Utah. By complaint, filed July 14, 1916, as amended, it alleges that the charges assessed on 30 carloads of peaches shipped from certain points in Utah to various eastern destinations, between August 25 and September 16, 1914, both dates inclusive, were illegal, unreasonable, unjustly discriminatory, and unduly prejudicial. Reparation is asked. Rates are stated in amounts per 100 pounds.

The peaches moved under refrigeration, packed in standard boxes, and weighed from 24,000 to 25,779 pounds to the carload, except in the case of two carload shipments which weighed 25,532 pounds each and were packed in bushel baskets. They originated at Springville, Caryhurst, and Provo, Utah, on the Denver & Rio Grande Railroad, and moved over various routes to Pittsburgh, Wilkes-Barre, Altoona, and Johnstown, Pa.; Boston, Springfield, and Worcester, Mass.; Cleveland, Ohio; and New York and Waverly, N. Y. Charges were assessed at the carload commodity rate of \$1.15, minimum 26,000 pounds.

The tariffs under which the shipments moved contained the following general item:

COMMODITIES TAKING DECIDUOUS FRUIT (GREEN) RATES.

Rates on deciduous fruits (green) will apply to the following commodities, except as otherwise specifically provided in the tariff as amended: Apples, apricots, berries, cherries, currants, grapes, peaches, pears, plums, pomegranates, and prunes, in packages, or in cars having fixed or transient crates for same, minimum weight 24,000 pounds, except as otherwise provided.

The 26,000-pound minimum applied on complainant's shipments was provided in defendants' tariffs in effect prior to September 10, 1914, in connection with the specific \$1.15 rate on peaches, as follows:

Peaches in straight carloads or in mixed carloads with other deciduous fruits (green), minimum weight 26,000 pounds, except as otherwise provided.

In connection with the rates under this heading reference was made in a note at the bottom of the page, which made a 24,000-pound minimum applicable to certain destinations not here under consideration.

Effective September 10, 1914, the minimum was reduced to 24,000 pounds.

It is contended on behalf of complainant that, since a 24,000-pound minimum was shown in connection with the description "peaches, \* \* \* in packages," and the minimum of 26,000 pounds applied "except as otherwise provided," the former became applicable. It is insisted on behalf of defendants that the 26,000-pound minimum was part of the specific commodity rate on peaches, and that the accompanying phrase "except as otherwise provided" had reference to certain exceptions shown directly in connection with that rate and did not refer back to the general item. We think defendants' interpretation is correct, and find that the minimum weight applicable to the shipments made prior to September 10, 1914, was 26,000 pounds. One of the shipments, weighing 25,220 pounds, was apparently overcharged, as the applicable minimum at the time it moved, September 16, 1914, was but 24,000 pounds. If, upon investigation, it develops that there was an overcharge on this shipment, it should be promptly refunded, with interest.

For complainant it is pointed out that, while the class rates on third-class commodities, including deciduous fruits, from points in California to eastern destinations were 20 per cent higher than the third class applicable from Utah points, defendants maintained the same commodity rates on deciduous fruits from California as from Utah. The \$1.15 rate is not otherwise questioned.

Prior to 1906 rates on peaches from Utah were made on Mississippi River and Chicago combinations, through rates from California being observed as maxima. In that year the Denver & Rio Grande published through rates from Utah points, with a 24,000-pound minimum. Those rates were based on the combination previously applicable, still observing California rates as maxima, the rate from California to New York being \$1.45. On August 20, 1910, the Denver & Rio Grande reduced the rate to \$1.25 to meet a like reduction in the California rate. Again, on May 8, 1911, the California rate was reduced to \$1.15, and on June 8, following, the minimum was increased to 26,000 pounds. On August 20 the Denver & Rio Grande established

the same rate and increased the minimum to 26,000 pounds, which basis continued until September 10, 1914, when the minimum was reduced to 24,000 pounds, as already stated. Provo and other points in the peach-producing section in Utah are served by the San Pedro, Los Angeles & Salt Lake or by the Oregon Short Line, which with their connections reach the eastern markets. It was testified that the 24,000-pound minimum continued to apply over these routes when the \$1.15 rate was established, and to meet this competition defendants made applicable, at the request of the shippers, the same minimum from points on the Denver & Rio Grande.

For complainant it is urged that the 26,000-pound minimum was unreasonable because it compelled the shipper to pay for a greater tonnage than it could pack and ship under refrigeration, and that from many years' experience it decided that it would be better to pay for 26,000 pounds than to load that amount and suffer resulting damage. It was testified that the carriers promised to reduce the minimum to 24,000 pounds in time to apply during the shipping season of 1914, but that for some undisclosed reason the change in the tariff was not made until September 10, 1914, after a part of the shipments for that season had been moved. It was also testified that peaches at complainant's shipping points ripened early in 1914, and that after it had moved almost its entire crop it discovered that the 24,000-pound minimum was not effective, its competitors who had held back their crops, and competitors located at points where the peaches did not ripen so early, being thus enabled to get better results. But the respective minima were available to all shippers, and it does not appear that any of the peaches moving prior to the change in the tariff were sold in competition with peaches moving subsequently.

Provo and Springville are located on the Denver & Rio Grande and San Pedro, Los Angeles & Salt Lake. Caryhurst is served only by the former. During the entire season of 1914 the rate of \$1.15 and a minimum of 24,000 pounds were available from Provo and other peach-producing points in Utah and Idaho on the San Pedro, Los Angeles & Salt Lake and the Oregon Short Line, respectively, to the eastern destinations, and in marketing its products complainant came into competition with peaches from these other points. Specific instances of sales of complainant's shipments in competition with peaches from any of the alleged favored points were not cited. The allegations of damage resulting from the alleged undue prejudice is wholly unsupported by proof. From Colorado points a minimum of 26,000 pounds and not 24,000, as alleged by complainant, applied to the eastern destinations.

Defendants cited *Railroad Commission of California v. A. G. S. R. R. Co.*, 32 I. C. C., 17, in which we found reasonable the mini-  
48 I. C. C.

mum of 26,000 pounds applicable to carload shipments of deciduous fruits from California points to Denver, Kansas City, St. Louis, Chicago, and eastern points. They maintained that complainant's shipments can readily be loaded to that amount, especially considering the improved construction of refrigerator cars, their increased cubical and ice-bunker capacity and greater refrigerating efficiency.

Defendants' tariffs provided for a standard peach box 5 inches deep, 11½ inches wide, 19½ inches long, being exterior dimensions for length and interior for width and depth, including one-half inch cleat when used under cover. The space occupied by a peach box was given as about 0.84 of a cubic foot. The capacity of cars used for complainant's shipments were shown for defendants to range from 1,726 to 2,088 cubic feet. One thousand two hundred and ten boxes, necessary on the basis of the estimated weight of 21½ pounds to make up the minimum of 26,000 pounds, would occupy 1,016.4 cubic feet of space, or slightly over one-half that provided by the average car. Six of the shipments made by complainant in 1914, in A. R. T. cars of 2,045 cubic feet capacity, were loaded in excess of 26,000 pounds, and six from Colorado points in A. R. T. cars of capacities from 1,895 to 2,045 cubic feet were loaded over 27,000 pounds. Upon none of these shipments could defendants locate any claims for damages. Fifty cars shipped from Provo during the season of 1912 by complainant and others were loaded in excess of 26,000 pounds. The cubical capacity of the cars used is not shown. It is also testified that in 1915 a representative of the Western Weighing & Inspection Bureau weighed 153 bushel baskets of peaches at Provo and found them to average 55.77 pounds each, or 3.7 pounds more than the estimated weight provided in the tariffs, on which basis complainant's shipments in baskets would have exceeded 27,000 pounds per car.

Upon all the facts of record we find that the 26,000-pound minimum legally applicable on the shipments moving prior to September 10, 1914, is not shown to have been unreasonable. There is no proof of damage to complainant by reason of the alleged undue prejudice, and as any undue prejudice which may have existed has been removed, an order dismissing the complaint will be entered.

No. 9216.<sup>1</sup>

TERHUNE LUMBER COMPANY

v.

GULF & SHIP ISLAND RAILROAD COMPANY ET AL.

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*Submitted April 16, 1917. Decided February 6, 1918.*

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Rates on pine lumber in carloads from various points in Louisiana, Mississippi, and Alabama to Kittanning, Pa., not shown to have been unreasonable. Complaints dismissed.

*W. E. Terhune and F. G. Lillo* for complainant.

*George R. Allen* for Pennsylvania lines.

*E. H. Baird* for Pittsburgh, Shawmut & Northern Railroad Company and its receiver.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, CLARK, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the lumber business at Pittsburgh, Pa. By complaints, filed August 10 and 15, 1916, as amended, it alleges that defendants' charges on 13 carloads of pine lumber shipped from various points in Louisiana, Mississippi, and Alabama to Kittanning, Pa., in August, September, and October, 1914, were unreasonable to the extent that they exceeded the charges that would have accrued on basis of the rates contemporaneously maintained to Pittsburgh. Reparation is asked.

Kittanning is divided by the Allegheny River, the part on the east bank being served by the Pennsylvania Railroad and that on the west bank by the Pittsburg & Shawmut Railroad which, at the time the shipments moved, was operated under lease by the Pittsburgh, Shawmut & Northern Railroad. The shipments were destined to Kittanning on the west bank. There is no railroad bridge or other means for transporting cars across the river at that point, the physical connection between the Pennsylvania and the Pittsburg & Shawmut being at Brookville, Pa., a point 60 miles north of Kittanning. Traffic from the south over the Pennsylvania destined to

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<sup>1</sup> This report also embraces No. 9216 (Sub-No. 1), *Same v. Chicago, Rock Island & Pacific Railway Company et al.*; No. 9216 (Sub-No. 2), *Same v. Mobile & Ohio Railroad Company et al.*; and No. 9216 (Sub-No. 3), *Same v. New Orleans, Mobile & Chicago Railroad Company et al.*

Kittanning on the west bank necessitates a haul of about 113 miles more than to Kittanning on the east bank. Kittanning on the east bank is 45 miles from Pittsburgh.

For a number of years the Pennsylvania has maintained and now maintains on lumber from the south to Kittanning on the east bank the Pittsburgh basis of rates and to Kittanning on the west bank the Rochester, N. Y., basis. At the time the shipments moved the rates to Kittanning on the west bank ranged from 1 to 3 cents per-100 pounds higher than the rates to the east bank. On September 25, 1914, the Pittsburgh basis of rates was established from and to the points in question in connection with the Michigan Central Railroad through Buffalo or Black Rock, N. Y.; and on October 22, 1914, in connection with the Grand Trunk Railway through Black Rock, and the Buffalo, Rochester & Pittsburgh Railway by way of West Mosgrove, Pa.

During the course of the negotiations for the sale of the lumber complainant was assured by the consignee of the shipments that the Pittsburgh rates would be applied to Kittanning on the west bank by way of the Buffalo, Rochester & Pittsburgh through West Mosgrove and the Pittsburg, Shawmut & Northern. With that understanding the sale was consummated, and the shipments were routed accordingly. At least seven of the shipments moved through Pittsburgh over the Pennsylvania to Brookville and thence to destination. Apparently the other shipments moved in connection with the Buffalo, Rochester & Pittsburgh by way of West Mosgrove and thence over the line of the Pittsburg, Shawmut & Northern. The record fails to show definitely either the intermediate routing in each instance or the carrier responsible for the apparent misrouting of some of the shipments.

At the time of movement the Pittsburgh rates were not applicable to Kittanning, on the west bank, over the routes the shipments moved. Complainant relied wholly upon the showing that after the shipments moved and before some of them reached their destination the Pittsburgh basis was established over certain routes to Kittanning on the west bank. This in and of itself is insufficient to show that the charges assessed were unreasonable.

It appears that the shipments were overcharged in some instances and undercharged in others. In most cases the rates applicable in connection with the movement over the Pennsylvania were lower than those applicable over the Buffalo, Rochester & Pittsburgh. The defendants will be expected promptly to adjust their charges in accordance with the legally applicable rates.

An order dismissing the complaints will be entered.

No. 9248.  
ORRIN S. GOOD  
v.  
GREAT NORTHERN RAILWAY COMPANY.

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*Submitted January 19, 1917. Decided February 6, 1918.*

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Complaint assailing the through rates on pine and fir lumber in carloads from Waldo, British Columbia, to points in North Dakota dismissed.

*E. M. Fronk* for complainant.

No appearance for defendant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is engaged in the wholesale lumber business at Spokane, Wash. By complaint, filed October 11, 1916, he alleges that defendant's rates on pine and fir lumber, in carloads, from Waldo, British Columbia, to various points in North Dakota are unreasonable and unjustly discriminatory. Reparation is asked on certain shipments which moved between October 30, 1914, and July 5, 1915, inclusive.

The points of origin and destination are on defendant's line. The traffic in question enters the United States at Gateway, Mont., a point 15 miles south of Waldo. Complainant contends that the rates from Waldo to the respective North Dakota destinations in question are unreasonable and unjustly discriminatory to the extent that they exceed the rates from Gateway to the same points; in other words, that the Canadian point of origin is subjected to discriminatory or prejudicial rates, and that those rates are unreasonable. The case is governed by *International Paper Co. v. D. & H. Co.*, 33 I. C. C., 270, in which we said:

It is well settled by numerous decisions that the extent of our authority in connection with transportation to an adjacent foreign country is over that portion of the transportation within the confines of the United States. *Blackhorse Tobacco Co. v. I. C. R. R. Co.*, 17 I. C. C., 538; *Humboldt S. S. Co. v. White Pass & Yukon Route*, 25 I. C. C., 136; *Fullerton Lumber & Shingle Co. v. B. B. & B. C. R. R. Co.*, 25 I. C. C., 376; *Rates on Soda Ash and Other Commodities*, 48 I. C. C.

28 I. C. C., 613. \* \* \* We can not require the maintenance of joint rates from Canada into the United States, nor control the charges that carriers in Canada may make for transportation service in that country. We may require the defendants to cease and desist from continuing the joint rates complained of and establish their own rates for the service within the United States. The traffic would then move on combinations of rates. We see no occasion for doing this, nor do we see how that action could benefit these complainants.

An order dismissing the complaint will be entered.

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No. 9375.

N. A. WEBSTER

v.

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY ET AL.

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*Submitted March 12, 1917. Decided February 6, 1918.*

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Charges on a carload of rough gum lumber from Clio, Ark., held in transit at Thebes, Ill., and forwarded to Peru, Ind., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

*N. A. Webster* for complainant.

*John R. Turney* for St. Louis Southwestern Railway Company.

*Frank E. Webster* for Chicago & Eastern Illinois Railroad Company and its receiver.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is engaged in the wholesale lumber business at Texarkana, Tex. By complaint, filed December 11, 1916, he alleges that the combination rate of 26.6 cents per 100 pounds collected by defendants on a carload of rough gum lumber shipped February 4, 1916, from Clio, Ark., to Cypress, Ill., held in transit at Thebes, Ill., and subsequently forwarded to Peru, Ind., was illegal and unreasonable to the extent that it exceeded the joint rate of 24.6 cents from Clio to Peru. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment moved over the St. Louis Southwestern Railway, hereinafter called the Cotton Belt, from Clio to Thebes, where it was delivered to the Chicago & Eastern Illinois Railroad, hereinafter called the Eastern Illinois, in accordance with the rout-

ing instructions. The Eastern Illinois, under standing instructions from complainant, held the shipment in its yards at Thebes for reconsignment, and subsequently, upon being instructed to reconsign the shipment to Peru, returned it to the Cotton Belt, over which it moved to East St. Louis, Ill., and thence over the Wabash Railway to Peru. Charges were collected at the legally established rates of 15 cents from Clio to Thebes and 11.6 cents beyond. The Eastern Illinois tariff provided for the free return of shipments held for reconsignment to the connecting carrier from which received.

The Cotton Belt does not participate in a joint rate from Clio to Cypress. Its tariffs naming a joint rate of 24.6 cents from Clio to Peru restricted the routing by way of East St. Louis, Ill., and made reference to tariffs of individual carriers for rules respecting reconsignment. The rules relied upon by complainant in justification of its contention that the joint rate was legally applicable, in which view the Eastern Illinois concurs, were considered in *Hilgard Lumber Co. v. C. & E. I. R. R. Co.*, 45 I. C. C., 513, where we held that they did not authorize the application of the joint rate under circumstances similar to those present in the instant case.

Following that case, and upon the record, we find that the rates assessed were legally applicable. As no evidence was offered in support of the allegation of unreasonableness, the complaint will be dismissed.

An appropriate order will be entered.

48 I. C. C.

No. 7495.

PRODUCERS SALES COMPANY

v.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD  
COMPANY ET AL.

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*Submitted March 30, 1916. Decided February 6, 1918.*

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1. Carload and less-than-carload rates, and the carload minimum, applicable from St. Louis, Mo., to Fort Worth and Dallas, Tex., on oysters and other shellfish originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y., and the through rates from and to the points of origin and destination, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.
2. Icing charge of \$42.50 per car, applicable in western classification territory on such shipments, in carloads, not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

*Arthur B. Hayes and Charles Conrads* for complainant.

*Fred G. Wright and Henry G. Herbel* for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the shellfish business at Providence, R. I. By complaint, filed November 23, 1914, it alleges that defendants' carload and less-than-carload rates, and the carload minimum, from St. Louis, Mo., to Fort Worth and Dallas, Tex., on oysters and other shellfish originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y., and the through rates from the points of origin to destination, are unreasonable, unjustly discriminatory, and unduly prejudicial, and that defendants' icing charges applicable on carload shipments in western classification territory are unreasonable and unjustly discriminatory. Reparation is asked. Rates stated are per 100 pounds.

The through rates on shellfish from the originating points to Fort Worth and Dallas are the aggregates of the rates to and from St. Louis. Complainant's grievance as to rates arises principally, if not wholly, from the carload minimum applicable west of St. Louis. The official classification rates oysters and clams, in cans and oyster carriers or refrigerators, in less than carloads, one and a half times first class, and in carloads, minimum 15,000 pounds, first class; the western classification, first class in less than carloads, and third

class in carloads, minimum 24,000 pounds. In both classifications oysters in shells, in packages, are rated second class in less than carloads, and third class in carloads, minimum 24,000 pounds. Under these classifications the present rates on 15,000 pounds of oysters, in cans and oyster carriers or refrigerators, are the carload rate of \$1.055 to St. Louis and the less-than-carload rate of \$1.47 from St. Louis to Fort Worth and Dallas. The second-class rate from St. Louis applicable on oysters in shells, in packages, in less than carloads, is \$1.25. Complainant's shipments, principally made in cans and oyster carriers, do not greatly exceed 15,000 pounds each, and therefore take the \$1.47 rate from St. Louis, against which its real complaint is directed. When the complaint was filed the carload rate to St. Louis was 88 cents. This rate was subsequently increased to 92.2 cents, and, following *The Fifteen Per Cent Case*, 45 I. C. C., 303, to the present rate of \$1.055. The carload rate from St. Louis is \$1.04. In the case of less-than-carload shipments in scheduled refrigerator car service from St. Louis, on certain days of the week, or otherwise, with 15,000 pounds or over in the car, icing is furnished by the carrier. On carload shipments an icing charge of \$42.50 is made.

The adjustment of rates and minimum weights is alleged to favor Kansas City, Mo., and St. Louis, particularly the former, to which shipments of 24,000 pounds can advantageously be made and the benefit of the proportional third-class rate from St. Louis, prescribed in *Warnock Co. v. C. & N. W. Ry. Co.*, 21 I. C. C., 546, thus obtained. The rates from St. Louis to Kansas City and from each of those points to points in western classification territory generally are based on the same ratings and minimum as are the rates from St. Louis to Fort Worth and Dallas.

The carload rate applicable to fish, shell and bulk oysters to St. Louis from Fort Worth and Dallas is 65 cents, 24,000 pounds minimum; from Galveston, Tex., oysters, shucked, 20,000 pounds minimum, 56 cents, or in shells, 20,000 pounds minimum, 45 cents; and from New Orleans, La., oysters in shells, minimum 20,000 pounds, 40 cents. Other corresponding northbound rates to Chicago, Ill., and Milwaukee, Wis., varying according to differing minima, are cited. Attention was also directed, on complainant's behalf, to contemporaneous any-quantity express rates from Houma, La., to the Fort Worth group, for an average haul of 500 miles, of \$1.50, under which one-half of the revenue is said to have accrued to the rail carrier; and to a fourth-class carload rate of 96 cents, minimum 24,000 pounds, on fresh fish from St. Louis to Fort Worth.

Under the southern classification class rates apply from St. Louis to New Orleans, but in the opposite direction a lower basis of rates applies because of competition from Baltimore, Md., and other east-

ern points, while the rates from Galveston were made to promote a movement of Gulf oysters in competition both with New Orleans and the Atlantic seaboard. No shipments were shown to have been made to St. Louis from either Galveston or Fort Worth. Differing rates in opposite directions over the same lines require explanation, but under the facts of record the rates from New Orleans, Galveston, and Fort Worth can not be taken as establishing the unreasonableness of higher rates from St. Louis to Fort Worth and Dallas. The express rates cited represent wholly different circumstances and conditions and are not comparable with the rates in question. No evidence was presented as to the relative value or amount of oyster and fish shipments, and it is not made to appear that the rates on oysters should not exceed the basis accorded fish.

Upon the facts of record we find that the rates assailed are not shown to have been or to be unreasonable. As the rates from St. Louis to Kansas City and from St. Louis and Kansas City to other points in western classification territory are on the same classification basis as those to Fort Worth and Dallas, no unjust discrimination or undue prejudice results therefrom.

It was admitted that the carload minimum of 24,000 pounds can easily be loaded, but it is contended for complainant that, unlike Kansas City, the markets of Fort Worth and Dallas could not dispose of a shipment of that size within the time the oysters must be consumed. That Kansas City can utilize the carload minimum of 24,000 and Fort Worth and Dallas can not, are but incidents to the size of communities and do not establish preferential treatment in the one case and prejudicial treatment in the other. The principle for which complainant contends would require varying minima to suit the individual needs of communities served. We further find that the carload minimum of 24,000 pounds is not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.

As complainant made no carload shipments it never paid the icing charges of \$42.50, and it does not appear that any carload shipment of oysters was ever made from St. Louis to Fort Worth or Dallas. But the act provides that "no complaint shall at any time be dismissed because of the absence of direct damage to the complainant." Section 13.

Definite and conclusive evidence is necessary to support a finding that a charge is unreasonable or unduly prejudicial. Such evidence is lacking in this record and the complaint will be dismissed.

No. 9379.

S. C. WOOLMAN & COMPANY, INCORPORATED,

v.

TOLEDO, ST. LOUIS & WESTERN RAILROAD COMPANY  
ET AL.

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*Submitted March 22, 1917. Decided February 6, 1918.*

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Charges on a carload of baled hay from Fort Jennings, Ohio, to Paterson, N. J., not shown to have been unreasonable or otherwise in violation of the act. Complaint dismissed.

*Ward W. Pierson* for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the hay and grain business at Philadelphia, Pa. By complaint, filed December 15, 1916, it alleges that the charges collected on a carload of baled hay, shipped January 6, 1916, from Fort Jennings, Ohio, to Glenside, Pa., and re-consigned to Paterson, N. J., were unreasonable. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment, weighing 22,650 pounds, originated at Fort Jennings, a station on the Toledo, St. Louis & Western Railroad, was consigned to complainant's order at Glenside, Pa., and was routed over the blue line, that is, Michigan Central Railroad and connecting lines, with order to hold at Montrose, Ontario. Under the routing specified the shipment would have moved to Toledo, Ohio, over the line of the initial carrier and thence over the Michigan Central to Montrose. Defendants were not represented at the hearing, but the originating carrier stated in its answer that it was unable to deliver the shipment to the Michigan Central because that carrier had in effect an embargo against shipments moving over its lines east to Montrose; that thereupon the initial carrier requested other disposition from the consignor, who directed that the shipment be forwarded "to order of Raabe Bros., Jenkintown, Pa., notify S. C. Woolman & Co., Philadelphia, hold at Elmira, N. Y., via Delaware, Lackawanna & Western," and that accordingly the shipment was billed to Elmira

over the Detroit & Toledo Shore Line, Grand Trunk Railway, and Delaware, Lackawanna & Western Railroad. Upon learning that the shipment was on the tracks of the Delaware, Lackawanna & Western at Elmira, complainant, on January 21, 1916, ordered the car reconsigned to itself at Paterson, notify I. W. Archbold & Co., "N. Y. S. & W." delivery. The shipment moved over the Delaware, Lackawanna & Western to Bergen Junction, N. J., and beyond over the Erie and the New York, Susquehanna & Western railroads by way of Newark, N. J. Charges were collected thereon in the sum of \$87.39 at a combination rate of 37.7 cents legally applicable, composed of 26.1 cents to Bergen Junction, 4.2 cents to Newark, and 7.4 cents to Paterson, plus a charge of \$2 for reconsignment at Toledo.

For complainant it is stated that had this shipment moved as routed to Montrose and thence to Paterson a joint fifth-class rate of 26.1 cents would have applied, but an examination of the tariffs shows this contention to be erroneous.

Apparently complainant does not deny that defendants were authorized to change the routing of this shipment, but contends that the carriers should have recalled the original bill of lading and issued a new one which would have advised complainant of the changed routing; and that their failure to perform this duty resulted in the damage alleged. The record is not clear as to how the failure to notify complainant of the changed routing damaged it or how it would have averted the alleged damage if it had been promptly notified.

We find that the charges collected are not shown to have been unreasonable or otherwise in violation of the act, and an order will be entered dismissing the complaint.

48 I. C. C.

No. 9417.<sup>1</sup>

ENOCHS & WORTMAN

v.

ILLINOIS CENTRAL RAILROAD COMPANY ET AL.

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*Submitted July 5, 1917. Decided February 6, 1918.*

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Rates on yellow-pine lumber, in carloads, from points in Louisiana and Mississippi to Metropolis, Ill., and Paducah, Ky., not shown to have been unreasonable. Complaints dismissed.

*Green & Green* for complainant.

*R. Walton Moore, Edward H. Hart, and D. Lynch Younger* for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3.

These cases, which involve the same principle, were consolidated by agreement of the parties.

Complainants are J. L. Enochs, M. S. Enochs, and A. F. Wortman, copartners, engaged in the lumber business at Jackson, Miss., under the name of Enochs & Wortman. By complaints filed September 16, 1916, they allege that a rate of 16 cents per 100 pounds charged on numerous carloads of yellow-pine lumber shipped from points in Mississippi and Louisiana to Metropolis, Ill., and Paducah, Ky., from August 7, 1914, to May 2, 1915, were unreasonable and unduly prejudicial to the extent that they exceeded the rates contemporaneously in effect to Cairo, Ill. Reparation is asked. Rates are stated in amounts per 100 pounds.

Complainants rely largely upon *Metropolis Commercial Club v. I. C. R. R. Co.*, 30 I. C. C., 40, and *Paducah Board of Trade v. I. C. R. R. Co.*, 29 I. C. C., 583, in which we found that rates of 16 cents from points in this territory to Metropolis and Paducah were unduly prejudicial and subjected dealers and shippers at those points to undue prejudice to the advantage of their competitors located at Cairo enjoying a rate of 14 cents. From substantially equidistant points east of the Mississippi River in Louisiana and Mississippi we found that the rates to Metropolis should not exceed those to Cairo and required the defendants to establish rates to Paducah 1 cent less

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<sup>1</sup> This report also embraces No. 9418, Same v. Same.

than those to Cairo. The question of the reasonableness *per se* of these rates was not determined in either case. In order to comply with our orders in these and other cases in which readjustments of the lumber rates from the south were required, a tariff was filed to take effect October 1, 1914, naming rates of 15 cents to Metropolis, 14 cents to Paducah, and 15 cents to Cairo. Upon protests filed against the increased rate to Cairo, as well as against proposed increases to numerous other points, this tariff was suspended and considered in *Rates on Lumber from Southern Points*, 34 I. C. C., 652. We there found that the increased rate to Cairo had been justified, and the proposed rates to Cairo, Paducah, and Metropolis were made effective September 26, 1915. No evidence was introduced to show that the rates herein assailed were unreasonable *per se*, the reparation sought being based on the fact that, anticipating the establishment of reduced rates to comply with the *Metropolis* and *Paducah Cases*, *supra*, complainants reduced the quoted contract price of lumber \$1 per 1,000 feet. Complainant's witness testified that the reduction in the selling price substantially represented the reduction in charges based on the reduced rates, but the evidence as to damage or the amount thereof is indefinite.

Complainant's exhibits indicate that charges were collected on certain shipments from points on the Alabama & Vicksburg Railway to Metropolis on the basis of 16 cents, whereas a rate of 17.4 cents was applicable prior to September 26, 1915. The freight bills were not submitted, and the facts essential to a determination of the charges legally applicable are not before us.

We are of opinion and find that the rates assailed are not shown to have been unreasonable, and that there has not been the showing of damage necessary to justify an award of reparation where rates have been found to be unduly prejudicial. An order dismissing the complaints will be entered.

48 I. C. C.

No. 9428.

**WESTERN CAROLINA LUMBER & TIMBER ASSOCIATION  
ET AL.**

*v.*

**VIRGINIA CAROLINA RAILWAY COMPANY ET AL.**

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*Submitted May 4, 1917. Decided February 6, 1918.*

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Rate on logging cars in carloads from Damascus, Va., to Judson, N. C., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

*George L. Forrester* for complainant.

*George E. Penn* for Virginia Carolina Railway Company.

*Claudian B. Northrop* for Southern Railway Company.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainants are the Western Carolina Lumber & Timber Association, an incorporated organization engaged in presenting claims on behalf of its members, and the Graham County Lumber Company, a corporation engaged in the lumber business, hereinafter called complainant, both located at Asheville, N. C. By complaint, filed December 7, 1916, they allege that the charges collected by defendants for the transportation in July, 1914, of three carloads of logging cars from Damascus, Va., to Judson, N. C., were illegal and unreasonable. Reparation is asked. The claim was presented to the Commission informally April 1, 1916. Rates are stated in cents per 100 pounds.

The shipments, aggregating 163,100 pounds, were delivered by complainants' agent to the Virginia Carolina Railway Company at Damascus July 31, 1914, consigned to complainant at Judson. They moved over the line of the initial carrier to Abingdon, Va.; Norfolk & Western Railway to Bristol, Va.; Southern Railway through Bushnell, N. C., to Judson. Under defendants' tariffs, Judson being a non-agency station, the charges on shipments thereto must be prepaid. Complainant's agent had been instructed to bill the shipments to Judson without prepaying the charges if possible; otherwise, to bill them to Bushnell, a point 4 miles short of Judson. It appears to have been understood that if the carriers' agent could not get the shipments through to Judson with the charges to be collected he should

change the destination to Bushnell. When the cars arrived at Bristol the Southern refused to accept them because the charges had not been prepaid. Thereupon defendants' agent at Damascus instructed the Norfolk & Western to change the destination to Bushnell. It was testified that upon receipt of notification of the arrival of the cars at Bushnell complainant informed the agent at that point that it did not know whether it wanted them forwarded to Judson, Whiting, or Fontana, N. C., and two or three days intervened before instructions were given to forward the shipments to Judson. Charges were collected at Bushnell in the sum of \$921.06, at a rate of 56 cents, composed of rates of 9 cents to Abingdon, 8 cents to Bristol, 33 cents to Bushnell, and 6 cents to Judson. The shipments were overcharged \$7.70. A through combination rate of 50 cents from Damascus to Bushnell was also applicable to Judson. No bill of lading was issued changing the destination from Judson to Bushnell, and the shipments were finally delivered at Judson after the payment of the charges, as stated. With the exception of the usual general provisions, none of which applied here, the tariffs of the Southern, in effect at the time of movement, did not provide for reconsignment at the through rate.

Complainant relied solely upon the contention that the through combination rate of 50 cents was legally applicable. No testimony was offered to prove that the charges assessed were unreasonable for the service actually performed, and the absence of a rule providing for reconsignment or diversion under the existing circumstances was not questioned.

We find that the rate assailed was legally applicable and that it is not shown to have been unreasonable. It does not appear that any demurrage charges were assessed for the detention of the cars at Bushnell. If no demurrage charges were legally applicable, defendants will be expected promptly to refund to complainant the overcharge of \$7.70, with interest. An order dismissing the complaint will be entered.

No. 9440.  
SEALY MATTRESS COMPANY  
v.  
SUGAR LAND RAILWAY COMPANY ET AL.

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*Submitted May 25, 1917. Decided February 6, 1918.*

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Rates on mattresses in carloads from Sugar Land and Houston, Tex., to Chicago, Ill., and from Sugar Land to St. Joseph, Mo., not shown to have been unreasonable. Complainant not shown to have been damaged by the unjust discrimination or the undue prejudice alleged. Complaint dismissed.

*S. C. Griffin* for complainant.

*Robert Dunlap; T. J. Norton; W. F. Dickinson; Baker, Botts, Parker & Garwood; and F. E. Andrews* for defendants; *M. J. Dowlin* for Chicago, Rock Island & Pacific Railway Company and its receiver, and Chicago, Rock Island & Gulf Railway Company; and *Gentry Waldo* for Houston & Texas Central Railroad Company and Texas & New Orleans Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the manufacture of mattresses at Sugar Land and Houston, Tex. By complaint, filed January 15, 1917, it alleges that the second-class rates of \$1.41 per 100 pounds charged by defendants on numerous carloads of mattresses shipped from Sugar Land and Houston to Chicago, Ill., and \$1.25 per 100 pounds on two carloads of mattresses shipped from Sugar Land to St. Joseph, Mo., between January 21, 1915, and September 26, 1916, both dates inclusive, were unreasonable, unjustly discriminatory, and unduly prejudicial to the extent that they exceeded rates of 96 cents to Chicago and 80 cents to St. Joseph. Reparation is asked. Rates are stated in cents per 100 pounds.

Sugar Land is on the Sugar Land and the Galveston, Harrisburg & San Antonio railways, 26.8 miles west of Houston. Second-class rates of \$1.25 to St. Joseph and \$1.41 to Chicago, which were legally applicable, were assessed, except that apparently a rate of \$1.41 was charged on one shipment from Sugar Land to St. Joseph. If upon investigation it is found that such an overcharge exists, the carriers should refund it with interest. The rates upon the basis of which

reparation is sought are the same as the commodity rates in effect at the time the shipments moved from points in the so-called Dallas-Fort Worth, Tex., group to Chicago and St. Joseph. These rates were made applicable from Sugar Land and Houston on October 21, 1916, and are satisfactory to complainant, whose only interest in this case is with respect to reparation.

In support of its contentions complainant relies largely upon the fact that, upon its request, defendants reduced the rates in question, and that the rates charged were higher than the commodity rates contemporaneously in effect on mattresses from points in the Dallas-Fort Worth group, with which Sugar Land and Houston were and are generally grouped in making rates to destinations in certain defined territory, including Chicago and St. Joseph. Complainant competes with mattress manufacturers located at Dallas, Fort Worth, Denison, Greenville, and Paris, Tex., points in the group referred to.

The average distance from Sugar Land by way of the routes over which the shipments moved is approximately 1,324 miles to Chicago and 908 miles to St. Joseph. The average loading of 32 carloads of mattresses shipped by complainant during the period in question was 13,495 pounds. Based on the average distance and loading shown, the rates charged yielded, to Chicago, 2.129 cents per ton-mile and 14.3 cents per car-mile, and to St. Joseph, 2.75 cents per ton-mile and 18.5 cents per car-mile; the present rates yield, to Chicago, 1.45 cents per ton-mile and 9.7 cents per car-mile, and to St. Joseph 1.76 cents per ton-mile and 11.8 cents per car-mile. The short-line distances from Sugar Land are, to Chicago, 1,126 miles and, to St. Joseph, 837 miles, or 157 miles and 290 miles, respectively, longer than the short-line distances from Dallas to the same destinations.

We find that the rates assailed are not shown to have been unreasonable. Any undue prejudice which may have existed has now been removed, and there is no proof of damage to complainant by reason of the alleged discrimination. An order dismissing the complaint will be entered.

48 I. C. C.

No. 9447.  
HOLLINGSHEAD & BLEI COMPANY, INCORPORATED,  
v.  
MISSOURI & NORTH ARKANSAS RAILROAD COMPANY  
ET AL.

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*Submitted May 11, 1917. Decided February 6, 1918.*

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Rate on oak staves, in carloads, from Harrison, Ark., to New York, N. Y., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

*Paul H. Miller* for complainant.

*J. C. Murray* for Missouri & North Arkansas Railroad Company and its receiver.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

By DIVISION 3:

Complainant is a corporation dealing in cooperage supplies at Chicago, Ill. By complaint, filed January 18, 1917, it alleges that the rate of 37 cents per 100 pounds charged by defendants on a carload of staves shipped July 24, 1914, from Harrison, Ark., to Dupon, Ill., reconsigned to New York, N. Y., was unreasonable and unjustly discriminatory to the extent that it exceeded 35 cents. Reparation is asked. The claim was presented to the Commission informally within the statutory period. Rates are stated in cents per 100 pounds.

The shipment, consisting of oak staves, originated at Harrison, a local station on the Missouri & North Arkansas Railroad, hereinafter called defendant, which extends from Joplin, Mo., to Helena, Ark. It moved over defendant's line to Kensett, Ark.; St. Louis, Iron Mountain & Southern Railway, hereinafter called the Iron Mountain, to East St. Louis, Ill., and beyond over the Toledo, St. Louis & Western, the New York, Chicago & St. Louis, and the Delaware, Lackawanna & Western railroads. The record does not establish at what point the shipment was reconsigned. On March 1, 1915, a rate of 35 cents was established from and to these points. In support of its contention complainant relies upon the subsequent reduction of the rate and also upon the fact that rates of 35 cents apply from a number of Arkansas points on the St. Louis-San Francisco and the St. Louis Southwestern railways and the Iron Mountain, including Pettigrew, Pine Bluff, Paragould, Camden, Tex-

arkana, Womble, and Little Rock, which points are said to be similarly situated to Harrison, except that the distance to St. Louis from some of them is greater.

A rate of 35 cents was contemporaneously in effect over the Iron Mountain from Kensett, and defendant applied that rate from points on its line between Kensett and Leslie, Ark., 97 miles, while the 37-cent rate applied as a group rate from points within a radius of 54 miles beyond Leslie, including Harrison. It is pointed out for defendants that a two-line haul is required to reach St. Louis from points on its line, while the points referred to by complainant as taking a lower rate are located on the lines of carriers which reach St. Louis over their own rails. It was testified that defendants' road traverses a mountainous country with a number of severe grades within the territory from which the 37-cent rate applied, and that for the five years previous to July, 1916, its operation resulted in a net deficit of \$900,000; also that it was never defendant's intention to reduce the rate from Harrison; and that the 35-cent rate was established through error of one of its connections, and instructions have been given to reestablish the 37-cent rate.

It is not established that there is a similarity of transportation conditions affecting the rates to New York from Harrison and the other Arkansas points referred to, and upon the facts of record we are of opinion and find that the rate assailed is not shown to have been unreasonable or unjustly discriminatory. An order will be entered dismissing the complaint.

48 I. C. C.

No. 9487.  
AMERICAN WINDOW GLASS COMPANY  
v.  
SOUTHERN RAILWAY COMPANY ET AL.

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*Submitted June 1, 1917. Decided February 6, 1918.*

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Following *Central Commercial Co. v. L. & N. R. R. Co.*, 27 I. C. C., 114, 33 I. C. C., 164, and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 523; *Held*, That defendants should have permitted the diversion of a carload of cullet from Winston-Salem, N. C., to New Kensington, Pa., at Potomac Yard, Va., to Jeannette, Pa., on basis of the through rate from Winston-Salem to Jeannette, plus a maximum charge of \$5 for the extra services incident to the diversion. Defendants authorized to waive collection of certain undercharges.

*William T. Lowe* for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the manufacture of window glass at Pittsburgh, Pa. By complaint filed October 21, 1916, it alleges that the charges assessed by defendants on a carload of cullet shipped in March, 1915, from Winston-Salem, N. C., to New Kensington, Pa., diverted in transit at Potomac Yard, Va., to Jeannette, Pa., were unreasonable to the extent that they exceeded the charges that would have accrued on the basis of the joint rate from Winston-Salem to Jeannette. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment moved over the Southern Railway to Potomac Yard; Philadelphia, Baltimore & Washington Railroad to Baltimore, Md.; and the Pennsylvania Railroad beyond. The change in destination from New Kensington to Jeannette was effected by the Southern at Potomac Yard. The original contents of the car remained unchanged and no out of line haul was necessary. The shipment weighed 66,800 pounds and charges were collected thereon in the sum of \$180.36 at a joint rate of 27 cents. This rate was inapplicable, as the Southern's tariffs did not, except under certain circumstances not present here, permit reconsignment or diversion at the joint through rate. A combination rate of 40.8 cents, composed of 28

cents to Potomac Yard and 12.8 cents beyond, was legally applicable, so that the shipment was undercharged \$92.18. Effective December 27, 1915, the Southern amended its tariffs to permit diversion or reconsignment of shipments at the through rate from point of origin to final destination, plus a charge of \$5 per car for the extra services incident to the reconsignment.

Upon the record, and following *Central Commercial Co. v. L. & N. R. R. Co.*, 27 I. C. C., 114; 33 I. C. C., 164; and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 523, we find that the defendants should have provided for the diversion of the shipment on the basis of the joint through rate of 27 cents per 100 pounds contemporaneously in effect from Winston-Salem to Jeannette, plus a reasonable charge for the extra services performed incident to the diversion; also that \$5 would have been a reasonable maximum charge for the extra services performed. We further find that the charges legally applicable were unreasonable to the extent that they exceeded those that would have accrued on the basis of the rate and extra charge herein found reasonable. Collection of the outstanding undercharges in excess of \$5 should be waived. As the Southern now permits diversion at the through rate plus a charge of \$5 for the services incident to the diversion no order for the future is necessary.

An order dismissing the complaint will be entered.

48 I. C. C.

No. 9591.  
**WILSON REMOVER COMPANY**  
*v.*  
**CHICAGO, MILWAUKEE & ST. PAUL RAILWAY  
COMPANY.**

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*Submitted July 5, 1917. Decided February 6, 1918.*

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Certain storage charges on a shipment of varnish remover at Kansas City, Mo.,  
found to have been unreasonable.

*Joseph Kempf and Casius M. Paine* for complainant.  
*O. W. Dynes* for defendant.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainant is a corporation engaged in the manufacture and sale of paint and varnish removers at Newark, N. J. By complaint, filed March 9, 1917, it alleges that the charges assessed by defendant for the storage of a less-than-carload shipment of varnish remover shipped January 5, 1915, from Newark to Kansas City, Mo., were unreasonable. Reparation is asked. The claim was presented to the Commission informally September 3, 1915.

The shipment consisted of 100 wooden cases of varnish remover in cans ranging from a half pint to one gallon capacity, and weighed, in the aggregate, 11,135 pounds. It was made by means of two forwarding agencies to and from Chicago and arrived at Kansas City over defendant's line January 13, 1915. The transportation charges were paid by the complainant at the hearing and are not in issue. The shipment was refused by the original consignee on account of litigation involving the letters patent on certain varnish removers and was placed in defendant's warehouse January 13, 1915. Later the second consignee refused the shipment on account of the storage charges which had accrued. After the failure of both parties to secure disposition of the shipment complainant instructed the defendant's agent in New York, N. Y., by letter of February 25, 1915, to place it on storage in a public warehouse, which was accomplished by the defendant's agent at Kansas City on March 8, 1915. The shipment was stored in the name of defendant. The defendant's tariffs provided for the absorption of the charge of \$5 for the trans-

fer. The shipment still remained in the public warehouse at the date of the hearing.

The varnish removers comprising this shipment are made of benzols, methyl alcohols, and acetones combined with waxes which retard its evaporation. A test made from a sample of the shipment by an inspector of the bureau of explosives of the American Railway Association indicated that the flash point was not above 45 degrees Fahrenheit; or, lower than 80 degrees. Hence, the shipment is within the class of dangerous articles requiring a red label as prescribed and designated in our regulations for the transportation of explosives and other dangerous articles.

Charges for storage were assessed in the sum of \$470.40 for the period from January 16, 1915, to March 8, 1915, inclusive, at the legally applicable rate of 10 cents per 100 pounds per day. Forty-eight hours' free time was allowed. The storage charges of the public warehouse amounted to \$83 up to January 9, 1917, and are still accruing. All of these charges remain unpaid and stand as a lien against the shipment.

The complainant contends that the defendant's charges, amounting per day to \$11.20, are unreasonable to the extent that they exceed the charges that would have accrued at the rate of 5 cents per case for the first month and 3 cents per case thereafter assessed by the public warehouse company, which latter charge is not on file with us. The rate of 10 cents per 100 pounds per day for the storage of dangerous articles, such as varnish remover, was approved by us for application in central freight association territory in *Storage Charges in C. F. A. Territory*, 28 I. C. C., 372, is uniform throughout the country generally, and upon this record has not been shown to be unreasonable.

For defendant it is admitted that it has no excuse to offer for its failure to comply, within a reasonable time, with the complainant's request for the transfer of the shipment to the public warehouse, and that the transfer should have been effected not later than March 1, 1915. We find that the defendant's admitted failure to comply with complainant's request within a reasonable time resulted in the assessment of storage charges for the period March 1 to March 8, 1915, both inclusive, that were unreasonable to the extent that they exceeded those that would have accrued in the public warehouse. The collection of these charges should be waived.

48 I. C. C.

**No. 9490.**  
**WILLIAM GALLOWAY COMPANY**  
*v.*  
**GREEN BAY & WESTERN RAILROAD COMPANY ET AL.**

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*Submitted May 9, 1917. Decided February 6, 1918.*

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The unauthorized movement of a manure spreader from Sturgeon Bay, Wis., to Fish Creek, Wis., consigned from Aladdin, Iowa, to Sturgeon Bay, *Held* not to be a violation of the act to regulate commerce. Refund of overcharges directed and complaint dismissed.

*S. D. McAuley* for complainant.

*C. M. Cheney* for Waterloo, Cedar Falls & Northern Railway Company.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainant is a corporation engaged in manufacturing agricultural implements at Waterloo, Iowa. By complaint filed February 1, 1917, it alleges that the charges collected on a manure spreader shipped August 4, 1914, from Aladdin, Iowa, to Fish Creek, Wis., by way of Sturgeon Bay, Wis., were unreasonable to the extent that they exceeded charges based on the rate applicable from Aladdin to Sturgeon Bay. Reparation is asked. The claim was presented to the Commission informally December 18, 1915. Rates are stated in cents per 100 pounds.

The shipment, which weighed 1,400 pounds, was delivered by complainant to the Waterloo, Cedar Falls & Northern Railway Company at Aladdin, consigned to Gustav Kalms, Sturgeon Bay, Wis., with instructions on the bill of lading under the heading "mail address—not for purposes of delivery," Fish Creek No. 1. It moved from Aladdin to Sturgeon Bay as routed by complainant over the Waterloo, Cedar Falls & Northern, the Chicago Great Western and Green Bay & Western railroads, and the Ahnapee & Western Railway. Upon arrival at Sturgeon Bay, and without further instructions, the shipment was delivered by the Ahnapee & Western to the Goodrich Transit Company, over which line it moved by water to Fish Creek, where it was accepted by the consignee. Charges were

collected thereon in the sum of \$11.08 plus a dockage charge of 50 cents. Of this amount the consignor bore \$4.76, the charges accruing up to Sturgeon Bay, and the consignee \$6.82, the charges beyond that point. The rate, from Aladdin to Sturgeon Bay was 34 cents, but we are unable to verify the local charges beyond for the reason that the rates are not filed with us. The rate legally applicable over the route of movement from Aladdin to Fish Creek was a joint rate of 51 cents. There is no tariff authority for a dockage charge. The shipment was therefore overcharged \$4.44, which defendants will be expected to refund to the proper parties, with interest.

Complainant's sole contention is that in forwarding the shipment from Sturgeon Bay to Fish Creek the Ahnapee & Western acted without authority and should therefore be compelled to refund the charges collected for that movement. In *Reeves Coal Co. v. C., M. & St. P. Ry Co.*, 37 I. C. C., 707, in which reparation was asked on account of an unauthorized movement of a carload of coal from Dell Rapids to Sioux Falls, S. Dak., we said:

The complainant was in a position to demand that the shipment be returned to it at Dell Rapids without expense; but instead of pursuing that course it acquiesced in the unauthorized movement and accepted delivery of the shipment at Sioux Falls. It necessarily follows that there should be no departure from the established rate for that service.

Reparation is awardable only for violations of the act, and we find that no provisions of the act are shown to have been violated. Complainant is remitted to its remedy at law in a court of competent jurisdiction. The complaint therefore will be dismissed.

Following that case and upon the record we find that no provision of the act is shown to have been violated, and an order dismissing the complaint will be entered.

No. 9132.

E. SONDHEIMER COMPANY ET AL.

v.

ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY  
COMPANY ET AL.

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*Submitted February 5, 1917. Decided February 6, 1918.*

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Rate on lumber, in carloads, from Junk's Spur, Waterproof, St. Joseph, Newellton, Sondheimer, Lake Providence, and Milliken, La., to Thebes, Ill., not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

*John D. Martin and Elias Gates for complainants.*

*Henry G. Herbel and Fred G. Wright for defendants.*

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainants are E. Sondheimer Company and Desha Lumber Company, corporations engaged in manufacturing lumber at Sondheimer and Lake Providence, La., respectively, and Hyde Lumber Company, a corporation engaged in the sale of lumber at South Bend, Ind. By complaint, filed August 9, 1916, they allege that the local and proportional rates of the St. Louis, Iron Mountain & Southern Railway, hereinafter called defendant, on lumber, in carloads, from Junk's Spur, Waterproof, St. Joseph, Newellton, Sondheimer, Lake Providence, and Milliken, La., to Thebes, Ill., are unreasonable and unjustly discriminatory. Reparation is asked. The attack upon the proportional rate has been abandoned. Complainants also ask that if the rate to Thebes is reduced a corresponding reduction be made in the rate to St. Louis. Rates are stated in cents per 100 pounds.

The record discloses that complainants manufacture hardwood and are concerned only with the rates applying thereon. Prior to *Northbound Rates on Hardwood from Southwest*, 32 I. C. C., 521, the rate on hardwood from the northern part of Louisiana to Thebes was generally 2 cents lower than the yellow-pine rate. The rate on yellow pine from the blanket south of the Arkansas River and west of the Mississippi River to Thebes has been 16 cents for many years. Following our decision in that case, in which the carriers proposed various increases in the hardwood rates for the purpose of bringing

them up more closely to the yellow-pine basis, a rate of 16 cents was established on hardwood from Louisiana points generally to Thebes. This blanket rate has subsequently been considered and found justified in *Northbound Rates on Hardwood*, 34 I. C. C., 708; *Rates on Lumber from Southern Points*, 34 I. C. C., 652; and other cases.

Complainants introduced no evidence to show that the 16-cent rate is unreasonable *per se*. They refer to a rate hereinafter mentioned from Dermott, Ark., and certain adjacent points, but otherwise their contentions are predicated upon defendant's system or adjustment of gross and net rates on logs or rough lumber to milling points on its line, and rates out of these points on the manufactured lumber. The specific allegations are that under this adjustment (1) the net rates from the points of origin in question to Memphis, Tenn., and to Arkansas City and Helena, Ark., plus the basing rates on the manufactured lumber from these milling points to Thebes result in combinations which are respectively lower over such indirect routes than the 16-cent rate applicable over the direct route, and (2) that the route through Memphis, over which such rates apply, is 68 miles longer than the direct route; necessitates a bridge haul into and out of Memphis; and switching at Memphis, the charges for which defendant absorbs, and is, therefore, productive of correspondingly less revenue than the movement over the direct route. The rate asked is 13 cents, which complainants conceive would yield ton-mile earnings approximating the earnings under the rates referred to through Memphis.

The gross rate on logs or rough lumber from each of the Louisiana points named to Memphis is the local rate of 14 cents. The net rate to Memphis from St. Joseph and Newellton is 9 cents, and, under the tariff, refund is made to this basis upon shipment from the milling point of such percentage of the inbound product as is required by the tariff and upon compliance with its other requirements. At the time of hearing a basing rate of 7 cents applied on lumber from Memphis to Thebes consigned to points in central freight association territory. The proportional rate from Memphis to Thebes, on shipments destined to this territory, was and is 8 cents. In *Southeastern Lumber*, 42 I. C. C., 548, decided January 3, 1917, we found that respondents had justified a proposed increase in the basing rate from 7 cents to 8 cents from Memphis to Thebes, and that basing rate is now in effect. For the purpose of this case we will consider the rates applicable at the time of the hearing. The aggregate of the net rates into Memphis and the basing rate thence to Thebes from the two points named was 16 cents, or the equivalent of the rate over the direct line. The net rates from the different points of origin vary and from one of the points to Memphis, that rate, plus the basing rate used from Memphis

to Thebes, was 14½ cents. The differences in the local rates from the points of origin to Thebes and the sums of the net and basing rates to and from Memphis are due to the fact that the local rate is blanketed from a large territory while the net rates to Memphis are essentially distance rates and necessarily less from the northern part of the blanket than from the southern part. The transit tariffs provide that when the combination of the net rate on the rough material to the transit point and the product rate to destination makes less than the through rate from point of origin of the rough material the net rates shall be sufficiently increased to protect the through rate from point of origin of the rough material to final destination.

A witness for defendant testified that lumber traffic constitutes approximately one-third of its tonnage and that the transit arrangement was established to build up industries at different points on its line and to place such industries upon a parity as far as possible. Defendant challenges the propriety of the comparison of rates made by complainants, and contends that if a comparison of the rates applicable under this adjustment could properly be made with the direct line rate, the gross and not the net rates should be considered. We find no merit in complainants' contentions with respect to the adjustment. In addition to whatever criticism may otherwise properly attach to the rate comparisons employed, it is to be observed that the factor from Memphis to Thebes, which, as stated, has since been increased to 8 cents, was a basing rate used only in constructing through rates to points beyond Thebes.

The aggregate of the rates described to and beyond Memphis does not differ materially from the aggregate of such rates basing on Arkansas City or Helena. Complainants contend that from one of the Louisiana points the present aggregate of such rates to and beyond Helena is 3½ cents less than the direct line rate. This contention is predicated upon the use of a factor from Helena to Thebes of 8 cents, arrived at by adding 1 cent to the 7-cent basing rate from Memphis to Thebes, and upon the claim that this basis is authorized under agent Anderson's tariff I. C. C. 15, which contains a general provision that the rates from Helena to points from which rates are applicable from Memphis shall be 1 cent over the Memphis rates. This provision has no application to defendant's local rates from Helena to Thebes, as the tariff further provides that this basis shall not apply to rates to that point by way of defendant's line and specifically refers to defendant's local tariff for those rates. The local rate from Helena to Thebes is 11 cents. The combination based on Helena equals, or is greater than, the local rate from the points of origin to Thebes except that from Milliken, the combination of the

net and local rate to and from Helena is one-half cent lower than the local rate from Milliken to Thebes.

With respect to the comparative revenue derived by defendant under the rates described through Memphis, and under the rate by way of the direct route, complainants have offered considerable evidence, including various calculations. In view of the impropriety of using the rates by way of Memphis as a standard or measure of the rate complained of, a discussion of this evidence is unnecessary.

The alleged discrimination with respect to the system or adjustment of defendant's rates is also, in the main, predicated upon the Memphis adjustment and for the reasons above indicated need not be discussed.

Comparisons are made by complainant with a proportional rate of 13 cents from Dermott and adjacent points, namely, Masonville Spur, Decker, Hudspeth, and Blissville, Ark. Defendant's witness testified that these points are located in the extreme northern part of the blanket taking the 16-cent rate under *Northbound Rates on Hardwood from Southwest, supra*, and that, after the rates therefrom were increased, the mill owners at those points urged upon defendant that, though their mills were south of the line dividing that blanket from the lower rated blanket on the north, the greater part of their timber lay north of the dividing line; that much expense would be incurred in moving the mills to points north of the line; and that the milling points were equitably entitled to the rate applicable from the more northern blanket. The rate from these points to Thebes was therefore reduced to the present basis of 13 cents. No corresponding reduction was made in the local rate.

Upon the facts of record we find that the rate assailed has not been shown to be unreasonable or unduly prejudicial.

An order dismissing the complaint will be entered.

48 I. C. C.

No. 9179.  
**GULF LUMBER COMPANY ET AL.**  
v.  
**GULF & SABINE RIVER RAILROAD COMPANY ET AL.**

*Submitted April 3, 1917. Decided February 6, 1918.*

Charges on yellow-pine lumber, in carloads, from Fullerton, La., to various Kansas and Nebraska points, found to have been illegal and refund directed.

*Vincent L. Boisaubin* for complainant.

*H. G. Herbel* and *F. B. Clark* for Missouri Pacific Railway Company; St. Louis, Iron Mountain & Southern Railway Company and B. F. Bush, receiver.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**By DIVISION 3:**

Complainants are the Gulf Lumber Company and the Chicago Lumber & Coal Company, corporations engaged in the lumber business at East St. Louis, Ill., the latter being the selling agent of the former. By complaint, filed September 11, 1916, they allege that the charges collected on 50 carloads of yellow-pine lumber shipped from Fullerton, La., to various points in Kansas and Nebraska, between February 13 and November 23, 1915, both dates inclusive, were unreasonable and unduly prejudicial. Reparation is asked. The rates are stated in cents per 100 pounds.

The shipments originated at Fullerton, a local point on the Gulf & Sabine River Railroad, and moved as routed over that road to Nitram, La.; thence over the lines of the Lake Charles & Northern, Louisiana Western, Texas & New Orleans, and Houston & Texas Central railroads, and Missouri, Oklahoma & Gulf system, by way of Lake Charles, La., Beaumont, Nacogdoches, Dallas, and Denison, Tex., to Rex, Okla., or Joplin, Mo.; and the Missouri Pacific system beyond.

Fullerton is stated to be located in the heart of the yellow-pine producing territory in Louisiana, from points within which blanket rates ordinarily apply on lumber to the destinations in question. For a number of years prior to January 31, 1915, group 5, joint rates applied on lumber from Fullerton to these destinations over the routes of movement. On that date, under a tariff provision which will be discussed hereinafter, defendants attempted to discontinue the

application of the group 5 rates from Fullerton to these destinations, thus making applicable combination rates composed of a local rate of 7 cents to Beaumont and the group 5 rates beyond, Beaumont being a group 5 point. Charges on a number of these shipments were collected at the combination rates. On the others the group 5 rates were assessed, and it is contended on behalf of defendants that these latter shipments were undercharged.

It is insisted for defendants that the cancellation of the group 5 rates from Fullerton was effected on January 31, 1915, in supplement No. 18 to agent Leland's tariff I. C. C. No. 1038, by the following note applying in connection with rates to stations on the Missouri Pacific system:

Note 53-G. Rates in connection with the M. O. & G. systems will not apply from stations on the M. L. & T. R. R. or L. W. R. R. nor from points on their connections in Louisiana.

The Gulf & Sabine River does not connect directly with the line of the Morgan's Louisiana & Texas Railroad & Steamship Company nor with the Louisiana Western Railroad so that the note in question did not in our opinion cancel the application of the group 5 rates from Fullerton to the destinations here under consideration. The group 5 rates were therefore legally applicable to these shipments, and those upon which charges were collected at rates in excess of the group 5 rates were overcharged. Effective December 20, 1915, after the movement of these shipments, the note above quoted was amended in agent Leland's tariff I. C. C. No. 1103 by including the Lake Charles & Northern Railroad, with which the Gulf & Sabine River connects. On September 10, 1916, the group 5 rates were established from Fullerton over other routes. The present rates and routes are satisfactory to complainants, their only interest in this case being with respect to reparation.

We find that the charges collected at combination rates were illegal to the extent that they exceeded the charges that would have accrued at the applicable group 5 joint rates, and should be refunded, with interest.

48 I. C. C.

No. 9549.  
**BERTLES & BERTLES**  
*v.*  
**MICHIGAN CENTRAL RAILROAD COMPANY ET AL.**

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*Submitted June 6, 1917. Decided February 6, 1918.*

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Allegation that demurrage charges at Detroit, Mich., on a carload of lumber shipped from Klickitat, Wash., were unreasonable and unduly discriminatory not sustained. Complaint dismissed.

*J. F. Bertles* for complainant.

*Charles S. Albert* for defendants.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainants are John F. Bertles and Henrita Bertles, copartners, engaged in the lumber business at Spokane, Wash., under the name of Bertles & Bertles. By complaint, filed March 1, 1917, they allege that demurrage charges of \$45 collected by defendants on a carload of lumber shipped June 25, 1914, from Klickitat, Wash., to Detroit, Mich., were unreasonable and unduly discriminatory to the extent that they exceeded \$10. Reparation is asked. The claim was presented to the Commission informally August 14, 1916.

It is alleged that the shipment arrived at Detroit July 22, 1914, and was refused by the consignee; that complainants, the consignors, were not advised of this fact until August 18, after they had requested that the shipment be traced; that on September 1 they directed defendants to deliver the shipment to another customer at Detroit; and that this delivery was not effected and the car released until September 9. Complainants ask for a refund of the demurrage which accrued prior to August 18, and subsequent to September 1, on the grounds that defendants failed in their duty promptly to notify complainants of the refusal of the shipment, and to comply promptly with complainants' disposition order.

No definite evidence in support of these allegations was presented and the complaint will be dismissed.

An order will be entered accordingly.

No. 9548.

CARROLLTON EXCELSIOR & FUEL COMPANY, LIMITED.

v.

NEW ORLEANS & NORTHEASTERN RAILROAD  
COMPANY.

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*Submitted May 28, 1917. Decided February 6, 1918.*

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Complaint alleging undue prejudice by reason of the maintenance of lower rates on excelsior in carloads to New Orleans, La., from Enterprise, Miss., than from New Orleans to Hattiesburg, Miss., and other points, dismissed.

*William B. Goll* for complainant.

*J. B. Bannon* for defendant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged, among other things, in the manufacture and sale of excelsior at New Orleans, La. By complaint filed February 25, 1917, it alleges that the maintenance by defendant of class D rates on excelsior, in machine-pressed bales, in carloads, from New Orleans to Hattiesburg, Miss., and other points on its line, while maintaining a rate lower than class D on like traffic from Enterprise, Miss., to New Orleans, subjects complainant and its traffic to undue prejudice. The establishment of nonprejudicial rates for the future is asked. Rates are stated in cents per 100 pounds.

The only rate cited by complainant on excelsior from New Orleans is the class D rate of 16 cents to Hattiesburg, a point on defendant's line between Enterprise and New Orleans. It was testified for complainant that it made no shipments to Hattiesburg, most of its excelsior being sold in New Orleans. Its competitor at Enterprise can ship excelsior to New Orleans at a commodity rate of 12½ cents, which complainant alleges to be so low as to permit the Enterprise manufacturer to undersell complainant at New Orleans. This appears to be the principal cause of complaint. Complainant seeks to have the commodity rate from Enterprise canceled, leaving in effect the class D rate of 16½ cents which it contends is reasonable and proper. The Mobile & Ohio Railroad, which participates in the 12½-cent rate, is not a party defendant. There is obviously no undue

prejudice against complainant or its traffic by reason of the adjustment complained of.

It is also contended that complainant is at a disadvantage because its inbound rates on cordwood, from which excelsior is manufactured, are relatively higher than those to Enterprise. But the rates on cordwood are not in issue.

The complaint will be dismissed.

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No. 9556.

DAVID KAUFMAN & SONS COMPANY

v.

CENTRAL RAILROAD COMPANY OF NEW JERSEY ET AL.

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*Submitted May 19, 1917. Decided February 6, 1918.*

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Rate on roll scale in carloads from Elizabethport, N. J., to Coatesville, Pa., not shown to have been or to be unreasonable. Complaint dismissed.

*Louis Kaufman* for complainant.

*DeVoe Tomlinson* for Central Railroad Company of New Jersey.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the scrap iron and metal business at Elizabethport, N. J. By complaint, filed March 13, 1917, it alleges that the rate of \$1.10 per long ton charged by defendants on two carloads of roll scale, shipped March 1, 1917, from Elizabethport to Coatesville, Pa., was unreasonable to the extent that it exceeded 89 cents. Reparation is asked and the establishment of a reasonable rate for the future. Rates are stated in amounts per long ton.

The shipments consisted of 192,740 pounds of roll scale and moved over defendants' lines a distance of 147 miles. Charges were collected in the sum of \$94.65 at a joint commodity rate of \$1.10 legally applicable.

A rate of 89 cents applies on roll scale over defendants' lines from Elizabethport to Swedeland, Pa., 89 miles, over which route Swedeland is intermediate to Coatesville. There are commodity rates of \$1.58 on scrap iron, in carloads, from Elizabethport to Swedeland

and Coatesville as well as to several other points in the same general territory. It is urged on behalf of complainant that inasmuch as Coatesville and Swedeland take the same rates on scrap iron, the rate assailed was and is unreasonable to the extent that it exceeded and exceeds the 89-cent rate on roll scale to Swedeland. The rate charged yielded 7.5 mills per ton-mile, while the rate sought would yield 6.1 mills as against a yield of 10.2 mills under the rate to Swedeland.

It is shown on behalf of defendants that all class rates as well as commodity rates on numerous articles from Elizabethport to Coatesville are higher than the rates contemporaneously in effect to Swedeland, and that the rate on scrap iron, cited for complainant, is made under a group adjustment which applies in connection with scrap iron only, and is blanketed over an extensive territory extending from a few miles outside of Philadelphia, Pa., as far west as Harrisburg, Pa.

We find that the rate assailed is not shown to have been or to be unreasonable, and an order dismissing the complaint will be entered.

48 I. C. C.

No. 9486.

DEWEY BROTHERS COMPANY

v.

PITTSBURGH, CINCINNATI, CHICAGO & ST. LOUIS  
RAILROAD COMPANY ET AL.

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*Submitted May 11, 1917. Decided February 6, 1918.*

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Complaint alleging that the charges on a carload of wheat from Xenia, Ohio, to New York, N. Y., were illegal and unreasonable, dismissed.

*J. W. Greenfield* for complainant.

*H. C. Oliver* for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

By DIVISION 3:

Complainant is a corporation engaged in the hay, grain, and feed business at Blanchester, Ohio. By complaint, filed November 22, 1916, it alleges that the charges collected by defendants on a carload of wheat shipped in August, 1915, from Xenia, Ohio, to New York, N. Y., for export, were illegal and unreasonable. Reparation is asked. Rates are stated in cents per 100 pounds.

On August 9, 1915, complainant requested the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company to furnish an 80,000-pound capacity car. A 100,000-pound capacity car was furnished instead, into which 69,360 pounds of wheat were loaded. The shipment moved on a local bill of lading over the Pittsburgh, Cincinnati, Chicago & St. Louis and the Pennsylvania Railroad. Charges were collected thereon in the sum of \$119.99 at a commodity rate of 17.3 cents, minimum 60,000 pounds, the rate and minimum legally applicable on wheat for domestic use. Contemporaneously a rate of 15.2 cents applied on wheat in carloads, from Xenia to New York, for export, minimum 90 per cent of the marked capacity of the cars used, but defendants' export tariffs contained no rule for the application of the minimum for the car ordered when a larger car was furnished for carrier's convenience.

It is argued for complainant that the charges collected should not have exceeded those that would have accrued based on the export rate of 15.2 cents and a weight of 72,000 pounds, which is 90 per cent of an 80,000-pound capacity car. The reasonableness of the domestic

or export rate, or the minima applicable thereon, are not questioned, but it is contended that defendants' tariffs governing export shipments should contain a rule making applicable the minimum on the size of the car ordered when a larger car is furnished. The bill of lading did not contain a notation that the shipment was for export, as required by defendants' tariffs, and complainant's witness testified that he did not know whether the wheat was in fact exported. The complaint will be dismissed and an order will be entered accordingly.

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No. 9172.

FULLERTON-POWELL HARDWOOD LUMBER COMPANY

v.

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY ET AL

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*Submitted March 12, 1917. Decided February 6, 1918.*

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Rate on oak lumber in carloads from Little Rock, Ark., originally consigned to Cypress, Ill., stopped in transit at Thebes, Ill., and reshipped to Minneapolis, Minn., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

*H. J. Aldworth* for complainant.

*Daniel Upthegrove* and *John R. Turney* for St. Louis Southwestern Railway Company.

#### REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the wholesale lumber business at South Bend, Ind. By complaint, filed September 11, 1916, as amended, it alleges that defendants' rate of 32 cents per 100 pounds charged on a carload of oak lumber shipped October 19, 1915, from Little Rock, Ark., originally consigned to Cypress, Ill., stopped in transit at Thebes, Ill., and subsequently reshipped to Minneapolis, Minn., was unreasonable. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment, weighing 77,700 pounds, moved over the St. Louis Southwestern Railway, hereinafter called the Cotton Belt, to Thebes, at which point it was delivered to the Chicago & Eastern Illinois Railway, hereinafter called the Eastern Illinois, which under com-

plainant's standing instructions held the car at Thebes. Subsequently complainant instructed that carrier to reconsign the shipment to Minneapolis, Minn., at the through rate. It was thereupon returned to the Cotton Belt at Thebes and moved to Minneapolis by way of the Cotton Belt to East St. Louis, Ill., and beyond over the Illinois Central Railroad and Minneapolis, St. Paul & Sault Ste. Marie Railway. Transportation charges were collected in the sum of \$248.64 at a combination rate of 32 cents, composed of the legally established rates of 15 cents to Thebes and 17 cents beyond. A demurrage charge of \$1 is not in issue.

Complainant submitted no evidence to show that the rate applied was intrinsically unreasonable, and the real issue is one of tariff interpretation. At the time the shipment moved a joint rate of 29 cents applied from Little Rock to Minneapolis by way of the Cotton Belt, East St. Louis; Illinois Central; and Minneapolis, St. Paul & Sault Ste. Marie. The tariff naming this rate made general reference to tariffs of individual carriers for rules respecting reconsignment. It is complainant's contention that under the reconsignment rules the joint rate was legally applicable. But the same rules and the same contention were considered in *Hilgard Lumber Co. v. C. & E. I. R. R. Co.*, 45 I. C. C., 513, and *Webster v. St. L. S. W. Ry. Co.*, *ante*, page 436, in which we held that the reconsignment rules did not authorize the application of the joint rate to three carloads of lumber shipped from points in Arkansas and Texas, originally consigned one to Chicago, Ill., and two to Cypress, stopped in transit at Thebes, and subsequently reshipped to Cairo, Ill.

We find that the rate assailed was legally applicable and that it is not shown to have been unreasonable. An order dismissing the complaint will be entered.

No. 8615.  
ROTH-BLUM PACKING COMPANY ET AL.  
v.  
SOUTHERN PACIFIC COMPANY ET AL.

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PORTIONS OF FOURTH SECTION APPLICATIONS  
Nos. 1228, 1351, 1386, 1411, AND 1415.

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*Submitted March 2, 1917. Decided February 6, 1918.*

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1. Rates charged on live stock, in carloads, to San Francisco, Cal., from points in Nevada, Utah, Oregon, and New Mexico, and from points in California over an interstate route, not shown to have been unreasonable. Complainants not shown to have been damaged by undue prejudice in the past.
2. Present parity of rates on live stock from the same points to San Francisco and to Oakland, Cal., not shown to unduly prefer the former or unduly prejudice the latter. Complaint dismissed.
3. Fourth section relief denied.

*J. O. Bracken, J. D. Baker, and James E. Fenton* for complainants.  
*Geo. S. Squires, C. W. Durbrow, F. H. Wood, and A. P. Matthew*  
for defendants.

*Sanborn & Roehl* for interveners.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.  
BY DIVISION 3:

Complainants are copartnerships and corporations, engaged in the live-stock business at San Francisco, Cal. By complaint, filed January 25, 1916, as amended, they allege that the charges collected by defendants on numerous carloads of cattle, sheep, lambs, and hogs shipped to San Francisco from points in Nevada, Utah, Oregon, New Mexico, and California, the latter over an interstate route, within two years prior to May 17, 1916, were unreasonable and unduly prejudicial to the extent that they exceeded the charges contemporaneously collected by defendants on similar shipments from the same points of origin to Oakland, Cal. Reparation is asked and the establishment of rates to San Francisco no higher than to Oakland. The city of Oakland and the Oakland Chamber of Commerce intervened in support of the then existing relationship.

After the shipments moved defendants voluntarily reduced their rates to San Francisco to equal the rates to Oakland. These reductions were allowed to go into effect over the protests of the Oakland interveners. The present rates are satisfactory to complainants and they are, therefore, interested only in the question of reparation; while the interveners wish to have the former rate relation restored.

Between Oakland and San Francisco, located, respectively, on the eastern and western shores of San Francisco Bay, defendants maintain a car-ferry service. The distances by the car-ferry routes range from 4 miles to 7 miles. In addition to these rail-and-water routes, San Francisco is reached, on traffic from Oregon, Utah, and Nevada, by an all-rail route of the Southern Pacific Company over what is known as the "Dumbarton cut-off," which crosses a bridge over the southern part of the bay, and proceeds thence up the peninsula, the distance from Oakland to San Francisco over this route being 63 miles. The Southern Pacific handles approximately 90 per cent of its live-stock shipments to San Francisco by way of this cut-off which was built, it is stated, to avoid congestion over the car-ferry route. Service over either route consumes practically the same amount of time. A main-line haul only is required to Oakland, and the cost of transportation to that city is less than to San Francisco. San Francisco receives approximately 100 per cent more live stock than Oakland.

Generally speaking, Oakland and San Francisco have always been on a rate parity, except on live stock and on short-haul traffic, principally within the state of California, on which higher rates prevail to San Francisco than to Oakland. Even on live stock, when from points beyond the rails of the defendants, complainants cited instances where both cities have been accorded the same rates. Although it was stated on behalf of defendants and interveners that the higher charge on live stock to San Francisco than to Oakland from the points of origin here under consideration was intended to cover the additional cost of service over either the cut-off or car-ferry route, it appears that the differential, San Francisco over Oakland, ranged from \$1 to \$3 per car, depending upon the origin of the traffic. It was not shown that the expense of the additional service varied with the origin of the traffic.

In support of their allegations it was testified for complainants that the rates assailed have been reduced as a result of this complaint; that on traffic generally, including live stock, except from the territory here concerned, San Francisco and Oakland have been and are on a rate parity; that the wholesale butchers of both cities obtain their stock from the same sources in competition with one another; that the Oakland dealers dispose of from 10 per cent to 25 per cent

of their dressed meat in San Francisco, while the San Francisco dealers sell from 5 to 20 per cent of their product in the Oakland market; and that the selling prices are approximately the same in both cities.

The interveners' position, and substantially the only showing made by them, is that the formerly existing relationship between the two cities should be restored for the reasons that the differential, San Francisco over Oakland, reflects the relatively higher cost of the transportation to the former; that the equalization of rates is unreasonable and discriminatory, and deprives Oakland of the advantages of its geographical location; and that the meat business of Oakland which has developed under the former relationship will be injured by the elimination of the differential.

For defendants it was explained that the adjustment was effected in order to bring about the rate equality generally prevailing on other traffic. It was insisted that the rates assailed compared favorably with other rates in the same general territory, including rates approved by us, and therefore were not unreasonable.

We find that the rates assailed are not shown to have been unreasonable, and that the maintenance of the same rates on live stock to San Francisco and to Oakland is not shown to unduly prefer San Francisco or unduly prejudice Oakland. The record does not support an award of reparation under a finding of undue prejudice in the past, and as any undue prejudice to San Francisco which may have existed has now been removed, no finding with respect thereto is necessary.

Those portions of Southern Pacific Fourth Section Applications Nos. 1228, 1351, 1386, 1411, and 1415, in which authority is sought to continue to charge on live stock from points in the states of Nevada, Utah, Oregon, New Mexico, and Southern Pacific Company's Fernley branch points in California, over an interstate route, to San Francisco, rates which are lower than rates contemporaneously maintained from or to intermediate points, were heard with this case. It was explained for defendants that, with the exception of the tariff involved in application No. 1411, there are at present no fourth section violations at intermediate points, denial orders having already been entered in connection with the other fourth section applications. The tariff to which application No. 1411 refers contains some fourth section departures, but it was stated that this tariff was being reconstructed and that when it was completed the fourth section departures would be removed.

Orders will be entered dismissing the complaint and denying fourth section relief in connection with application No. 1411, to the extent that it is here involved.

No. 9164.

KANSAS BUFF BRICK & MANUFACTURING COMPANY  
v.

MISSOURI PACIFIC RAILWAY COMPANY ET AL.

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PORTIONS OF FOURTH SECTION APPLICATIONS  
Nos. 4218, 4219, 4220, AND 699.

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*Submitted November 21, 1916. Decided February 6, 1918.*

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1. Rate on common brick, in carloads, from Buffville, Kans., to Brinkley, Ark., found to have been unreasonable. Reparation awarded.
2. Fourth section relief denied.

*Rogers McCray* for complainant.

*H. G. Herbel* for defendants.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the manufacture of brick at Buffville, Kans. By complaint, filed September 5, 1916, it alleges that the rate charged by defendants on two carloads of common brick shipped September 16 and 30, 1914, from Buffville to Brinkley, Ark., was unreasonable and in violation of sections 2, 3, and 4 of the act in that it exceeded the rate from Kansas City, Mo., a more distant point. Reparation is asked. Those portions of Fourth Section Applications Nos. 4218, 4219, and 4220 of the Missouri Pacific and the St. Louis, Iron Mountain & Southern railway companies and No. 699 of F. A. Leland, agent, in which authority is sought to continue to charge for the transportation of common brick, in carloads, from Kansas City to Brinkley, rates which are lower than the rates contemporaneously maintained on like traffic from Buffville and from or to other intermediate points, were heard with the complaint. Rates are stated in cents per 100 pounds.

The shipments weighed 55,071 pounds and 54,000 pounds, respectively, and moved over the Missouri Pacific to Coffeyville, Kans., and beyond over the St. Louis, Iron Mountain & Southern, 546 miles. Charges aggregating \$174.52 were collected thereon at a rate of 16

cents, legally applicable. A rate of 13 cents was contemporaneously applicable on brick to Brinkley from Kansas City, Yates Center, Kans., and other points taking the Kansas City rate, to which Buffville is directly intermediate over defendants' lines. On March 9, 1916, the rate from Buffville and other points was reduced to 13 cents, which, it is stated for defendants, corrected the fourth section departures concerned.

There were cited for complainant, by way of comparison, rates of 10 cents from Buffville to Memphis, Tenn., 501 miles; and 12 cents from Buffville to Little Rock, Ark., 356 miles. A rate of 13 cents also applied from Kansas City to Brinkley over the Chicago, Rock Island & Pacific Railway, 824 miles. On traffic to Arkansas points Buffville ordinarily takes the same rates as Kansas City.

For defendants it is contended that the 16-cent rate was not intrinsically unreasonable, but a willingness to pay reparation was expressed.

We find that the rate assailed was unreasonable to the extent that it exceeded 13 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon at the rate herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable; and that it is entitled to reparation in the sum of \$32.73, with interest.

Orders awarding reparation and denying fourth section relief will be entered, but as the 13-cent rate has been in effect for more than a year no order for the future is necessary.

48 I. C. C.

No. 8897.<sup>1</sup>

**BUTTERS LUMBER COMPANY**

*v.*

**ATLANTIC COAST LINE RAILROAD COMPANY ET AL.**

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**PORTIONS OF FOURTH SECTION APPLICATIONS**

**Nos. 704, 1572, 1625, 1787, 3596, AND 3935.**

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*Submitted March 6, 1917. Decided February 6, 1918.*

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1. Rates on lumber, in carloads, from Whiteville, Lake Waccamaw, and Boardman, N. C., to Norfolk and Pinners Point, Va., and points north thereof, found to have been unreasonable. Reparation awarded.
2. Fourth section relief denied.

*John R. Walker and Claude W. Owen* for complainants.

*Charles D. Drayton, R. Walton Moore, and John C. Brooke* for defendants.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainants are corporations engaged in the manufacture of lumber or shingles at Boardman, Lake Waccamaw, and Whiteville, N. C. By complaints filed May 23, 1916, and on later dates they allege that the rates on lumber, which also apply on shingles, in carloads, from the points mentioned to Norfolk and Pinners Point, Va., and numerous points beyond in trunk line and New England territories were unreasonable and unduly discriminatory to the extent that the local or proportional rates to Norfolk or Pinners Point exceeded the aggregates of the intermediate rates to and from Drum Hill or Gates, N. C. Reparation is asked on numerous shipments moving subsequent to May 1, 1914. Claims covering a portion of the shipments were presented informally May 11, June 3, and July 5, 1916. Apparently some of the shipments are barred by the statute of limitation. Those portions of Fourth Section Applications Nos. 704 of the Atlantic Coast Line Railroad Company, 1572 of the Baltimore & Ohio Railroad Company, 1625 of C. C. McCain, agent, 1787 of the Erie Railroad Company, 3596 of the Boston & Albany Railroad Company, and 3935 of the South Brooklyn Railway Company,

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<sup>1</sup> This report also embraces No. 8897 (Sub-No. 1), North Carolina Lumber Company *v.* Atlantic Coast Line Railroad Company et al., and No. 8897 (Sub-No. 2), Whiteville Lumber Company *v.* New York, Philadelphia & Norfolk Railroad Company et al.

in which authority is sought to continue to charge for the transportation of lumber in carloads from and to these points of origin and destination joint rates which are higher than the aggregates of the intermediate rates, were heard with the complaints. Rates are stated in cents per 100 pounds, unless otherwise noted.

Lake Waccamaw, Whiteville, and Boardman are on the Atlantic Coast Line, approximately 36 miles, 47 miles, and 64 miles, respectively, west of Wilmington, N. C. The mill of complainant North Carolina Lumber Company is located at Hallsboro, a station on the Atlantic Coast Line about halfway between Whiteville and Lake Waccamaw. This company's shipments were formerly made from the latter point, but recently the railroad has placed an agent at Hallsboro and shipments are now made from that point. Lumber from Hallsboro to these destinations takes the same rates as from Lake Waccamaw.

Through rates on lumber from Carolina points to points in trunk line and New England territories are made up of the local or proportional rates from the Carolina points to the Virginia gateways, including Norfolk and Pinners Point, plus the specifics of the lines north of the gateways beyond. It was testified that the shipments moved over defendants' lines to or through Norfolk or Pinners Point by way of Drum Hill or Gates. The evidence was confined to the local and proportional rates from Boardman, Lake Waccamaw, and Whiteville to Norfolk and Pinners Point, which were 12 cents, minimum 34,000 pounds. Drum Hill and Gates are stations on the Atlantic Coast Line immediately south of the Virginia-North Carolina state line and directly intermediate to Norfolk. The local and proportional rate on lumber in carloads from Drum Hill and Gates to Norfolk and Pinners Point has been 3.25 cents for a number of years. Prior to May 22, 1915, a tariff of the Atlantic Coast Line provided for the application to lumber moving from Whiteville to Drum Hill of that carrier's class P distance rate of \$17.40 per car of 24,000 pounds, excess in proportion, equivalent to a rate of 7.25 cents. On the date mentioned the minimum was reduced to 20,000 pounds, which was equivalent to an increase from 7.25 cents to 8.7 cents in the rate to Drum Hill. Prior to May 22, 1915, the aggregate of the rates from Whiteville to Drum Hill and from Drum Hill to Norfolk or Pinners Point was 10.5 cents. On that date it was increased to 11.95 cents.

The tariff publishing the distance rates was filed with this Commission and indicated on its face that the rates therein were applicable to interstate traffic. It contained the following provision:

*Nonapplication of intrastate rates on interstate traffic.*—The rates published herein between Atlantic Coast Line R. R. stations (where traffic moves wholly

48 I. C. C.

within the state of North Carolina) do not apply in the construction of rates on interstate traffic for which joint or local interstate rates are provided in separately published tariffs.

It is contended that as joint or local through rates were in effect to the destinations the provision quoted made the rates carried in that tariff inapplicable to interstate traffic. But the distance rate was not so restricted or limited as to make it inapplicable as a factor in the construction of a through rate to these destinations had there been no through rate in effect. *Lafayette Chamber of Commerce v. L. W. R. R. Co.*, 41 I. C. C., 297.

Under the same tariff the aggregates of the intermediate rates from Lake Waccamaw and Boardman to Norfolk or Pinners Point, based on the distance rates to Gates and Drum Hill of \$17.30 per car, were 10.458 cents before the change in the minimum weight and 11.9 cents thereafter.

In Fourth Section Order No. 340, General No. 6, of October 10, 1911, it is provided:

That, applying the rule *de minimis*, all carriers be, and they are hereby, authorized, in the making up of through fares or rates on the aggregate of the intermediate fares or rates, to disregard fractions of a cent less than .5, retaining the half cent in the rate when it is even .5, and making the rate in even cents when the fraction is more than .5.

The aggregates of intermediate rates to Norfolk or Pinners Point in effect over the routes of movement prior to May 22, 1915, were 10.5 cents from Whiteville and 10.458 cents from Lake Waccamaw and Boardman and the order mentioned did not authorize joint rates in excess of those amounts. On May 22, 1915, the aggregates of the intermediate rates were increased to 11.95 cents from Whiteville and 11.9 cents from Lake Waccamaw and Boardman, and the 12-cent rates charged were therefore authorized by the order mentioned.

For defendants it was explained that the distance scale of rates, upon which the factors to Gates and Drum Hill are based, was originally published for intrastate traffic at the instance of the North Carolina Corporation Commission; that it was regarded by defendants as unreasonably low; and that it was made applicable on interstate traffic only for use in exceptional cases where there were no through class or commodity rates in effect. Defendants' witness also testified that the rates from Drum Hill and Gates to Norfolk and Pinners Point were forced to an abnormally low basis by competitive conditions. On October 13, 1914, a new and slightly lower distance scale, prescribed by the North Carolina Corporation Commission, was made applicable on intrastate traffic, but the old scale remained in effect as to interstate traffic. On March 10, 1917, the distance rates applicable on interstate traffic to Gates and Drum

Hill were superseded by higher rates which, added to the rates from these points to Norfolk or Pinnars Point, which were also superseded by higher rates on May 1, 1917, result in rates in excess of those herein attacked.

The evidence submitted in this case is similar to that in *Whiteville Lumber Co. v. A. C. L. R. R. Co.*, 46 I. C. C., 622, in which we found that the rates on lumber from Boardman and Whiteville to Norfolk and Pinnars Point were unreasonable and prescribed in lieu thereof rates not in excess of 11 cents, the revision to be accompanied by a corresponding realignment of the rates from intermediate points. The Butters Lumber Company was a party complainant in the case cited but the North Carolina Lumber Company was not. In that case no reparation was sought, whereas the instant case was brought primarily to secure reparation. In our opinion the defendants have failed to rebut the presumption of unreasonableness attaching to the rates applied to the shipments which moved prior to May 22, 1915, by reason of the fact that they were in excess of the aggregates of the intermediate rates. The fourth section applications will be denied to the extent that they are here presented.

We find that the rates applicable to the above-described shipments which moved prior to May 22, 1915, were unreasonable to the extent that the local or proportional rates to Norfolk or Pinnars Point exceeded the aggregates of the intermediate rates contemporaneously in effect over the routes of movement to those points; that complainants made the said shipments and paid and bore the charges thereon at the rates herein found unreasonable; that they have been damaged to the extent of the difference between the charges paid and those that would have accrued on the basis herein found reasonable; and that they are entitled to reparation with interest on all of the said shipments not barred by the statute of limitation. The exact amount of reparation due can not be determined upon this record, and complainants should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

An appropriate fourth section order will be entered.

48 I. C. C.

No. 9126.

**EL PASO IRON & METAL COMPANY**

v.

**ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY  
ET AL.**

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*Submitted December 15, 1916. Decided February 6, 1918.*

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Rate on secondhand empty beer bottles, in carloads, from Socorro, N. Mex., to El Paso, Tex., found to have been and to be unreasonable. Reparation awarded.

*Rufus B. Daniel* for complainants.

*B. F. E. Marsh* for Atchison, Topeka & Santa Fe Railway Company.

*W. R. Brown* for Rio Grande, El Paso & Santa Fe Railroad Company.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

By Division 3:

Complainants are Theodore Ehrenberg, I. Feinberg, and Max Feinberg, copartners, engaged in the junk business at El Paso, Tex., under the name of El Paso Iron & Metal Company. By complaint filed July 22, 1916, they allege that the rate of 77 cents per 100 pounds, minimum 30,000 pounds, charged by defendants on a carload of secondhand beer bottles, shipped April 11, 1914, from Socorro, N. Mex., to El Paso, was unreasonable. Reparation is asked and the establishment of a reasonable rate for the future. The claim was presented to the Commission informally November 26, 1915. Rates are stated in cents per 100 pounds.

Socorro is on the main line of the Atchison, Topeka & Santa Fe Railway, 178 miles north of El Paso. The shipment, consisting of 210 uncovered barrels of secondhand empty beer bottles, moved over defendants' lines. It weighed 28,800 pounds and charges were collected thereon in the sum of \$231 at the applicable fifth-class rate of 77 cents, minimum 30,000 pounds, governed by the western classification. The present fifth-class rate from and to those points is 38.5 cents. On August 30, 1915, a commodity rate of 30 cents, minimum 20,000 pounds, was established and is still in effect. Complainants ask for a 15-cent rate with a minimum of 30,000 pounds, but it is

apparent from the record that in general it would be impossible to load 30,000 pounds and difficult to load more than 20,000.

For defendants an attempt is made to justify the present commodity rate by comparing it with rates in effect over their lines on other low-grade commodities, including junk and broken glass. In *Gumm v. E. P. & R. I. Ry. Co.*, 20 I. C. C., 237, we prescribed a rate of 15 cents, minimum 20,000 pounds, on empty beer bottles to El Paso from Capitan, N. Mex., a point on a branch line of the El Paso & Southwestern system, 165 miles northeast of El Paso.

The present commodity rate yields ton-mile and car-mile revenues of 3.37 cents and 33.7 cents, respectively, while a rate of 16 cents, minimum 20,000 pounds, would yield 1.8 cents per ton-mile and 18 cents per car-mile which yield is comparable with the earnings under the 15-cent rate from Capitan to El Paso.

We find that the rate assailed was, and the present rate is, and for the future will be, unreasonable to the extent that it exceeded or may exceed 16 cents per 100 pounds, minimum 20,000 pounds; that complainants made the shipment as described and paid and bore the charges thereon; that they have been damaged to the extent of the difference between the charges paid and those that would have accrued on the basis herein found reasonable; and that they are entitled to reparation in the sum of \$184.92, with interest.

An order will be entered accordingly.

48 I. C. C.

**No. 8456.**  
**ASTORIA BOX COMPANY ET AL.**  
*v.*  
**SPOKANE, PORTLAND & SEATTLE RAILWAY**  
**COMPANY ET AL.**

*Submitted December 22, 1916. Decided February 6, 1918.*

Rates on fir lumber and its products, in carloads, from certain points on the Astoria division of the Spokane, Portland & Seattle Railway, to points on defendants' lines in Idaho and Utah, not shown to be unreasonable, but found to be unduly prejudicial to the extent that they exceed the rates contemporaneously applicable on fir lumber from points on the Oregon-Washington Railroad & Navigation Company in Washington to the same destinations.

*Joseph N. Teal and William O. McCulloch for complainants.*

*James G. Wilson for interveners.*

*H. A. Scandrett, A. C. Spencer, and L. T. Wilcox for Oregon-Washington Railroad & Navigation Company and Oregon Short Line Railroad Company.*

*Ben C. Dey for Southern Pacific Company.*

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainants are corporations operating lumber mills at Astoria, Wauna, Westport, Rainier, and Prescott, Oreg. By complaint, filed November 15, 1915, as amended, they allege that defendants' rates for the transportation of fir lumber and forest products taking the same rates, in carloads, from points at which complainants' mills are located to certain destinations in Idaho, Montana, and Utah are unreasonable, unjustly discriminatory, and unduly prejudicial to the extent that they exceed the rates contemporaneously applicable to the same destinations from Portland, Oreg. The Eastern & Western Lumber Company, Inman-Poulsen Lumber Company, and East Side Mill & Lumber Company, all located at Portland, and the Bridal Veil Lumbering Company, located at Bridal Veil, Oreg., intervened in support of the present relationship. Rates are stated in cents per 100 pounds.

Complainants' mills are situated on the Astoria division of the Spokane, Portland & Seattle Railway, an average distance of ap-

proximately 66 miles from Portland. The destination territory, to which the rates from Astoria are  $2\frac{1}{2}$  cents higher than from Portland, comprises stations on the Oregon Short Line Railroad, hereinafter called the Short Line, in Idaho and Utah, south of Pocatello, Idaho, and on the San Pedro, Los Angeles & Salt Lake Railroad in Utah south of Salt Lake City to and including Payson and Tooele. To points in Idaho and Montana on the Pocatello-Butte division of the Short Line the rates from Astoria are 5 cents higher than from Portland, but complainants have not introduced sufficient evidence to justify a consideration of the rates to this territory and on brief appear to have abandoned this issue. It will not further be considered. Salt Lake City may be considered as representative of the territory south of Pocatello, which is frequently referred to as Utah common-point territory.

The rate on fir lumber from Astoria to Salt Lake City is 40 cents. From Portland and points on the Oregon-Washington Railroad & Navigation Company, hereinafter called the Oregon-Washington, in Washington, including Seattle and Tacoma, and points on the line of the Southern Pacific Company in Oregon in the Willamette Valley south of Portland, the rate to Salt Lake City is  $37\frac{1}{2}$  cents. The history of the latter rate has been fully stated in *Eastern & Western Lumber Co. v. O. W. R. R. & N. Co.*, 41 I. C. C., 545, and need not be detailed here. It is sufficient to explain that on June 21, 1915, the Southern Pacific reduced the rates from the Willamette Valley to the Utah common-point territory from 40 cents to the Portland basis of  $37\frac{1}{2}$  cents and provided for routing over its line through Roseville, Cal., and Ogden, Utah. On October 11, 1915, the Oregon-Washington, in order to secure some of this traffic, established the  $37\frac{1}{2}$ -cent rate from the Willamette Valley through the Portland gateway and contemporaneously reduced the rates from points on its line in Washington to the same territory from 40 cents to  $37\frac{1}{2}$  cents, because it did not believe that it could properly participate in rates from points in the Willamette Valley lower than from points on its line in Washington. The 40-cent rates from points in Washington on the Great Northern and Northern Pacific railways were not reduced.

Complainants introduced exhibits showing that the distances from points on the Astoria division of the Spokane, Portland & Seattle to the destination territory in question are substantially the same as from points in Washington and in the Willamette Valley from which the  $37\frac{1}{2}$ -cent rate applies. For example, the distance to Salt Lake City from Seattle is 1,083 miles; from Springfield, Oreg., a representative point in the Willamette Valley, 1,018 miles; from Portland, 894 miles; and from Astoria, 994 miles.

It appears that low-grade lumber, such as fir, is in demand for the copper-mining industry of Utah. It was stated for complainants that the differential of 2½ cents against Astoria represents a difference in price of from 50 cents to 88 cents per 1,000 feet, depending upon the quality and grade of the lumber, and that if this amount were absorbed no profit would remain.

The Spokane, Portland & Seattle was not represented at the hearing, but in its answer expressed a willingness to join in the publication of rates from points on its Astoria division to the destinations in question on the basis maintained from points in the Willamette Valley and from points in Washington on the line of the Oregon-Washington.

The Short Line and Oregon-Washington rely on the fact that competition beyond their control compelled the application of the 37½-cent rate from points on their lines in Washington and in connection with the Southern Pacific from points in the Willamette Valley. It is asserted that the same conditions do not exist at points on the Astoria division of the Spokane, Portland & Seattle, and that as these points are on the same basis as other points in Washington on the Great Northern and Northern Pacific there is no justification for a change in the present adjustment.

The allegation of discrimination in complainants' petition was confined to Portland. After the original complaint was filed, and before the hearing in this case, we rendered our decision in *City of Astoria v. S., P. & S. Ry. Co.*, 38 I. C. C., 16, wherein we found that the class and commodity rates from Astoria to destinations in the eastern portions of Oregon and Washington, western Montana, and Idaho, known as the inland empire, were unduly prejudicial to the extent that they exceeded the rates from Seattle and Tacoma, Wash., and to certain points in this territory in so far as they exceeded the rates from Portland, Seattle, and Tacoma.

Without objection from defendants, the greater part of complainants' evidence was directed to show that the relationship between Astoria, on the one hand, and Seattle and Tacoma, on the other, should be the same to Utah common points as we found should exist to the inland empire, and the allegation with reference to the rates from Portland has practically been abandoned. As a result of the *Astoria Case, supra*, the rates on lumber from Astoria to points on the Short Line to and including Pocatello are now 37.5 cents, the same as the rates from Tacoma and Seattle, but the rates from Portland to this same territory prior to the decision in that case and at the present time are 35 cents. Beginning at Mapleton, Utah, on the Denver & Rio Grande Railroad, a distance of 53.9 miles from Salt

Lake City, and to all points in Colorado and destinations east thereof, the rates on lumber from Astoria, Portland, and points in Washington are generally the same, except that to certain competitive points in Colorado over the route of the Union Pacific system the rates from Astoria are higher than those from points in Washington. The latter situation has been brought about through the cancellation by the Spokane, Portland & Seattle of joint rates in connection with the lines of the Union Pacific system by way of Portland.

We find that the rates assailed are not shown to be unreasonable but that to the same destinations in Idaho and Utah they are, and for the future will be, unduly prejudicial to the extent that they exceed or may exceed the rates contemporaneously applicable on fir lumber, in carloads, from Tacoma and Seattle, Wash., to the same destinations.

An appropriate order will be entered.

48 I. C. C.

No. 9282.

**RICHWOOD LUMBER COMPANY ET AL.**

*v.*

**ST. LOUIS & SAN FRANCISCO RAILROAD COMPANY  
ET AL.**

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*Submitted March 17, 1917. Decided February 6, 1918.*

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1. Charges on two carloads of sand from West Tulsa, Okla., to Fairview and Wheaton, Mo., found to have been illegal.
2. Shipments found to have been misrouted by the St. Louis & San Francisco Railroad Company.
3. Reparation awarded.

*J. E. Johnston* for complainants.

No appearance for defendants.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**By Division 3:**

Complainants are the Richwood Lumber Company and the Robinson-Davis Lumber Company, corporations, dealers in building materials at Rocky Comfort and Neosho, Mo., respectively. By complaint filed October 19, 1916, they allege that the charges collected on two carloads of sand shipped from West Tulsa, Okla., to Fairview and Wheaton, Mo., October 16 and November 17, 1914, respectively, were unreasonable and in violation of the fourth section. Reparation is asked. The claims were presented to the Commission informally October 2, 1916. Rates are stated in cents per 100 pounds.

The shipments, weighing 87,600 pounds and 82,000 pounds, were delivered unrouted to the St. Louis & San Francisco Railroad, hereinafter called the Frisco, consigned to complainants Robinson-Davis Lumber Company and Richwood Lumber Company, respectively. The first moved over the Frisco through Neosho and Wayne, Mo., to Seligman, Mo., and thence over the Missouri & North Arkansas Railroad through Wayne to Fairview; the second over the Frisco to Neosho and thence over the Missouri & North Arkansas to Wheaton. Charges were collected at a through class E rate of 18 cents. The rates legally applicable were commodity rates of 4½ cents to Seligman and Neosho and the local distance class E rates of 6 cents beyond, the through class E rate charged being inapplicable for the reason that its use was restricted to traffic from certain points not

including West Tulsa. The shipments were therefore overcharged  $7\frac{1}{2}$  cents per 100 pounds.

There was contemporaneously in effect a combination rate of  $9\frac{1}{2}$  cents, composed of a commodity rate of  $4\frac{1}{2}$  cents to Wayne, and a local distance class E rate of 5 cents beyond. Effective June 2, 1915, a through commodity rate of  $10\frac{1}{2}$  cents was established from Tulsa, which now includes West Tulsa, to Fairview and Wheaton by way of Neosho. This rate was reduced on March 1, 1917, to the present rate of  $9\frac{1}{2}$  cents, which is satisfactory to complainants.

We find that the St. Louis & San Francisco Railroad Company misrouted the shipments; that complainants paid and bore the charges thereon, and were damaged by the misrouting to the extent of the difference between the charges applicable over the route of movement and those that would have accrued at the rate of  $9\frac{1}{2}$  cents per 100 pounds; and that they are entitled to reparation from the St. Louis & San Francisco Railroad Company and its receivers in the following amounts: Robinson-Davis Lumber Company in the sum of \$8.76, with interest, and Richwood Lumber Company in the sum of \$8.20, with interest; also to reparation from all of the participating defendants, the former in the sum of \$67.89, with interest, and the latter in the sum of \$63.55, with interest, the amounts of the overcharges above described.

An order awarding reparation will be entered.

48 I. C. C.

No. 8960.  
**OTIS ELEVATOR COMPANY**  
*v.*  
**NEW YORK CENTRAL RAILROAD COMPANY ET AL.**

*Submitted November 4, 1916. Decided February 6, 1918.*

Rate on elevator guides, in carloads, from East Buffalo, N. Y., to Denver, Colo., found to have been and to be unreasonable. Reparation awarded.

*W. J. L. Banham* for complainant.

*Kenneth F. Burgess* for Chicago, Burlington & Quincy Railroad Company.

*H. C. Bush* for Western Classification Committee and Uniform Classification Committee.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainant is a corporation engaged in the manufacture of elevators at East Buffalo, N. Y. By complaint, filed June 12, 1916, it alleges that the charges collected for the transportation in December, 1913, of a mixed carload of elevator guides, iron bolts, and fishplates from East Buffalo to Denver, Colo., were unreasonable and unjustly discriminatory. Reparation is asked and the establishment of a reasonable rate for the future. The claim was presented to the Commission informally within the statutory period. Rates are stated in cents per 100 pounds.

The shipment consisted of 37,300 pounds of elevator guides, 450 pounds of iron bolts, and 1,100 pounds of fishplates. It moved over the Lake Shore & Michigan Southern Railway and the Chicago, Burlington & Quincy Railroad, the latter hereinafter called the Burlington, and charges were collected thereon in the sum of \$330.93, based upon the fifth-class rate of 22½ cents, governed by the official classification, to East Burlington, Ill., a Mississippi River crossing, and beyond at the western classification fifth-class proportional carload rate of 62 cents on the elevator guides and the fourth-class proportional less-than-carload rate of 79 cents on the bolts and fishplates. The charges on the iron bolts and fishplates are not attacked.

Complainant contends that the charges assessed on the elevator guides were unreasonable and unjustly discriminatory to the extent that the portion thereof covering the haul west of the Mississippi

River exceeded what would have accrued on the basis of the proportional commodity rate of 45 cents, minimum 36,000 pounds, then in effect on structural iron and steel from Mississippi River crossings to Denver.

The 45-cent rate referred to was established following *Vulcan Iron Works Co. v. A., T. & S. F. Ry. Co.*, 22 I. C. C., 477, 27 I. C. C. 468, wherein we found that the rate of 63 cents formerly in effect from the Mississippi River to Denver was unreasonable to the extent that it exceeded 45 cents. That case was later reopened and consolidated with *The Iron and Steel Cases*, 36 I. C. C., 86. We there found that 60 cents would be a reasonable maximum rate to apply on structural iron and steel articles from and to the points concerned and modified our previous order accordingly. Thereupon the carriers published the 60-cent rate which is suspended. This rate was subsequently approved in *Iron and Steel to Colorado Points*, 41 I. C. C., 76, and became effective July 26, 1916. On November 10, 1916, the carriers voluntarily reduced this rate to 52½ cents, which is also the rate on wrought iron and other kinds of pipe, thereby removing the undue prejudice found to exist in the latter case.

An elevator guide is a T-shaped rail, upon which slides a U-shaped shoe, one of which is attached to each corner of an elevator cage. T irons out of which these guides are manufactured are shipped from the rolling mills to complainant's plant at Buffalo, where they are straightened, punched for bolts, and planed. The finishing process adds about \$1 per ton to the cost of the standard tees. The average lading is from 30 to 40 tons, or the maximum capacity of the cars furnished.

The official and the western classifications specifically rate elevator guides, in carloads, fifth class, minimum 36,000 pounds, the same as structural iron and steel articles. The southern classification includes elevator guide rails in its list of iron and steel articles, to which special iron rates apply. Commodity tariffs of the carriers in trunk line territory, such as the New York Central lines and the Pennsylvania lines, now apply the structural iron and steel commodity rates to elevator guides, along with angles, bars, beams, channels, tees, and zeos. The tariffs of the transcontinental lines also apply to elevator guides mixed with bolts and fishplates the same commodity rates as apply on structural iron and steel. The Burlington names commodity rates on elevator guides which are the same as on structural iron between Quincy and St. Louis and Chicago, but it does not apply them west of the Mississippi River.

For defendants it is urged that, although the classifications rate elevator guide rails and structural iron and steel the same, the movement of elevator guides is small as compared with the movement of

structural iron and steel, and is insufficient to justify the application of commodity rates; and that the finishing process to which elevator guides are put differentiates them from the term "structural tees."

It is asserted for complainant that the elevator guide is one of the lowest grade commodities in the list of iron and steel commodities in official and southern classifications; that the iron and steel list contains items from two to four times the value of the articles under consideration; and that the addition of \$1 per ton to the value of T rails by the finishing process does not justify, under the circumstance shown, a higher rate on elevator guides than on other T rails. *Otis Elevator Co. v. C. G. W. Ry. Co.*, 16 I. C. C., 502, is cited for complainant. But that case considered only the question of the legal rate applicable to two carloads of elevator guides from Chicago, Ill., to Portland, Oreg.

We find that the rate assailed was unreasonable to the extent that the portion thereof applicable from East Burlington to Denver exceeded the proportional rate of 60 cents per 100 pounds on structural iron and steel approved by us in the cases above cited and in effect at the time this case was submitted. We further find that for the future the proportional rate on elevator guides in carloads from East Burlington to Denver on shipments originating at East Buffalo will be unreasonable to the extent that it exceeds the proportional rate contemporaneously maintained on structural iron and steel articles. The allegation of unjust discrimination has not been sustained. We further find that complainant made the shipment as described, and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued on the basis herein found reasonable; and that it is entitled to reparation in the sum of \$7.46, with interest.

An appropriate order will be entered.

No. 9245.

BUSINESS MEN'S LEAGUE OF HELENA, ARK.,

v.

ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY  
COMPANY ET AL.

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*Submitted March 13, 1917. Decided February 6, 1918.*

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Defendants found to unduly prefer Pine Bluff, Ark., and to unduly prejudice Helena, Ark., in the matter of concentration rules on cotton shipped from certain points in Arkansas and Louisiana to Boston, Mass., and points basing thereon.

*M. W. Martin* for complainant.

*Henry G. Herbel* for defendants.

*W. N. Taylor* for Pine Bluff Cotton Exchange, intervener.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant alleges that defendants in granting to Pine Bluff, Ark., and withholding from Helena, Ark., the rules permitting concentrating and reshipping inbound cotton on the basis of the through rate which applies on direct shipments from the point of origin to final destination gives to Pine Bluff an undue preference and advantage and subjects Helena to undue prejudice and disadvantage. It was also alleged that the resulting rates were unreasonable, but no evidence was specifically directed to that issue. Boston, Mass., and points basing thereon are the points of final destination. The territory of origin embraces points on the line of defendant St. Louis, Iron Mountain & Southern Railway, hereinafter called the Iron Mountain, intermediate to and including Fairfield, Ark., to the northwest of McGehee, Ark.; Warren, Ark., to the west of McGehee; Crossett, Ark., and Sicard, La., to the southwest of McGehee; Calvit and Lake Providence, La., to the south of McGehee; and Arkansas City and Luna Landing, Ark., to the southeast of McGehee. Fairfield is the first station southeast of Pine Bluff on the Iron Mountain's line from Pine Bluff to McGehee and is 6 miles from Pine Bluff. Rates are stated in cents per 100 pounds.

Cotton shipped from Calvit to Boston, for example, and concentrated at Pine Bluff, pays local rates of 30 cents into Pine Bluff and

81½ cents thence to Boston, but when shipped outbound all of the inbound rate is refunded to the shipper except 5 cents, which gives to him the same through rate of 86½ cents that applies on direct shipments from Calvit to Boston. The record indicates that cotton shipped from Calvit to Boston and concentrated at Helena would also pay local rates in and out of Helena, but when shipped outbound no refund would be made of any part of the inbound rate. It is stated for complainant that the average difference would be between 20 and 25 cents in favor of Pine Bluff.

The record indicates that 91 and 65½ cents would apply in and out of Helena from Calvit to Boston, but a check of the tariffs shows that even the 91-cent class rate can not be applied from Calvit to Helena, item 970 of Leland's exception sheet I. C. C. 1137, by which the tariff Missouri Pacific I. C. C. A 2567 is governed, providing that class rates will not apply. There being no commodity rate from Calvit to Helena, there is apparently no rate applicable from and to these points.

Cotton shipped to the east from this originating territory is routed principally through East St. Louis, Ill., but also through Memphis, Tenn., and Thebes, Ill. From all points therein south of McGehee the distance through Helena is shorter than through Pine Bluff by 17 miles to East St. Louis, 32 miles to Thebes, and 82 miles to Memphis. Shipments from these points move through McGehee to both Helena and Pine Bluff, and the difference in distance through the two points is in the transportation north of McGehee.

From the stations between McGehee and Fairfield the average distance through Pine Bluff is shorter than through Helena by 48 miles to East St. Louis and 33 miles to Thebes, and through Helena is shorter than through Pine Bluff by 17 miles to Memphis. The difference on traffic to East St. Louis, the principal gateway, ranges from 3 miles from Tillar, Ark., 7 miles northwest of McGehee, to 83 miles from McLaughlins Spur, Ark., 3 miles southeast of Fairfield.

The Pine Bluff Cotton Exchange intervened in opposition to the prayer of the petition. Its main contention seems to be that Pine Bluff has long been the chief concentrating point for cotton originating in this territory; has financed the growers at a great expenditure of money over a long series of years; and has grown to look upon the territory as being legitimately its own as a reward for its efforts and the resulting aid to the growers. It questioned to some extent the adequacy of Helena's facilities for handling the increased tonnage that would be drawn to that point if the prayer of the petition should be granted. But these facilities were shown to be ample. Helena has two compresses and facilities for handling 60,000 bales. It is stated

that the average quantity which it is now called upon to handle at any one time is 20,000 bales.

A witness for complainant testified that the territory produces annually about 175,000 bales, of which only about 5,000 bales are concentrated at Helena. He estimated that Helena within a few years would attract from 25,000 to 50,000 bales annually from this territory if accorded the same concentration rules as Pine Bluff.

Helena now purchases some cotton from this territory and concentrates it at McGehee. This arrangement is unsatisfactory because the transactions must be financed from Helena, and from three to five days' valuable time is lost by delay in sending the necessary compress receipts and bills of lading back and forth between Helena and McGehee. Interest, insurance, and storage charges accrue in the meantime, and other shipments, which sometimes form a part of the same general consignment against which one draft is drawn, are delayed. .

Shipments can not now profitably be sent to Helena for sale on commission. A grower at Lake Village, La., shipped 100 of his 1,000 bales to Helena as an experiment, but found that the better price he received in the Helena market was offset by the higher aggregate charge for freight. He therefore discontinued his attempts to concentrate at Helena, although he would have preferred to concentrate there on account of facilities for financing.

No evidence was presented for defendants. It was stated on behalf of the Iron Mountain that "this is just between two competitive localities on our rails, and we are perfectly willing that the Commission should act as an arbitrator between them here, and whatever decision is rendered we will be glad to put into effect," and that it was neither resisting the complaint nor suggesting that it be granted.

Upon all the facts of record we find that the defendants in granting to Pine Bluff and withholding from Helena the rules permitting concentrating and reshipping inbound cotton originating at the points designated and destined finally to Boston and points basing thereon at the through rates from points of origin to final destinations, give to Pine Bluff, its traffic and shippers, an undue preference and advantage, and subject Helena, its traffic and shippers, to undue prejudice and disadvantage. They will be required to cease and desist from this discrimination.

No. 9051.  
**STANDARD OIL COMPANY (KENTUCKY)**  
v.  
**YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY**  
**ET AL.**

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**PORTIONS OF FOURTH SECTION APPLICATIONS Nos.**  
**542, 601, 1469, 1548, 1618, 1933, 1952, 2043, 2045, AND 2188.**

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*Submitted March 7, 1917. Decided February 6, 1918.*

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1. Rates on petroleum refined oil and gasoline, in tank-car loads, from North Baton Rouge, La., and Wood River, Ill., to Kennedy, Ala., found to have been unreasonable. Reparation awarded.
2. Fourth section relief denied.

*Charles Van Overbeke* for complainant.

*G. N. Robinson* for Yazoo & Mississippi Valley Railroad Company and Illinois Central Railroad Company.

*F. S. Reigel* for Southern Railway Company.

*J. M. Dewberry* for Louisville & Nashville Railroad Company.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainant is a corporation engaged in marketing petroleum and its products at Louisville, Ky. By complaint, filed July 14, 1916, it alleges that the rates of 50 cents per 100 pounds charged on a tank-car load of gasoline shipped from North Baton Rouge, La., to Kennedy, Ala., November 7, 1914, and on two tank-car loads of petroleum refined oil shipped from Wood River, Ill., to Kennedy October 1 and November 17, 1914, were unreasonable to the extent that they exceeded the subsequently established rates of 48 cents from North Baton Rouge and 41 cents from Wood River. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipments moved over defendants' lines. That from North Baton Rouge weighed 67,881 pounds, and moved through Memphis, Tenn. Charges were collected thereon in the sum of \$339.41 at the combination rate of 50 cents, legally applicable, composed of a commodity rate of 14 cents to Memphis and the fifth-class rate of 36 cents, governed by the southern classification, beyond. The shipments from Wood River aggregated 88,530 pounds, and charges were collected thereon in the sum of \$417.66 at the joint fifth-class rate of

50 cents, legally applicable. At the time the shipments moved the carriers parties to the joint rate were also parties to a commodity rate of 12 cents applicable on petroleum and petroleum products from Wood River to Memphis by way of Corinth, Miss., and to the 36-cent rate above referred to from Memphis to Kennedy by way of Corinth, which resulted in a combination of 48 cents, or 2 cents less than the joint rate charged. The record does not disclose whether these shipments were transported to Memphis. Apparently they moved through Corinth and, under rule 5 (b) of Tariff Circular 18-A, the 48-cent combination would have applied in the absence of the joint rate.

Effective November 24, 1914, defendants established a commodity rate on this traffic from Memphis to Kennedy of 29 cents, equal to the sixth-class rate from and to those points; on January 1, 1915, a joint commodity rate of 43 cents from North Baton Rouge to Kennedy; and on January 23, 1915, a joint commodity rate of 41 cents from Wood River to the same destination. These rates, which are still in effect, were the same as the respective combination rates on Memphis.

For complainant it is represented that to substantially all local stations in Alabama, where oil storage tanks are located and shipments of petroleum and its products are received regularly, commodity rates are maintained based on the sixth-class local rates from basing or junction points, and tariffs containing rates made on this basis were cited. An examination of tariffs on file with the Commission shows that from various Ohio and Mississippi river gateways, including Memphis, to numerous points on defendants' lines in Alabama and Mississippi, the rates in effect on these commodities are almost without exception equal to or less than the corresponding sixth-class rates. The present basis of rates was requested of defendants when complainant determined upon the erection of its storage tanks at Kennedy. It appears that defendants were at all times willing to establish the rates asked, and that those rates did not become effective in time to be available for these shipments because of errors and delays in tariff publication. It was admitted on behalf of the defendants represented at the hearing that the rates charged were unreasonable, and a willingness to pay the reparation asked was expressed.

Upon the facts of record we find that the rates assailed were unreasonable to the extent that they exceeded rates of 43 cents per 100 pounds from North Baton Rouge, and 41 cents per 100 pounds from Wood River; that complainant made the shipments as described, and paid and bore the charges thereon at the rates herein found unreasonable; that it was damaged to the extent of the difference between

the charges paid and those that would have accrued at the rates herein found reasonable; and that it is entitled to reparation in the sum of \$47.52, with interest, from the Yazoo & Mississippi Valley Railroad Company and the Southern Railway Company, and in the sum of \$75.19, with interest, from the Illinois Terminal Railroad Company, the Mobile & Ohio Railroad Company, and the Southern Railway Company.

The present rates on the commodities in question from North Baton Rouge and Wood River to Kennedy and certain other Alabama and Mississippi points do not accord with the long-and-short-haul rule of the fourth section of the act, and fourth section applications of various carriers protecting the departures were heard with the complaint.

On behalf of the Louisville & Nashville Railroad Company it was testified that it only asked for such relief as was granted by us to circuitous lines in the southeast in Fourth Section Order No. 3866, entered in *Fourth Section Violations in the Southeast*, 30 I. C. C., 153. In that case we granted the carriers operating between certain points, over lines more than 15 per cent longer than the short lines between the said points, relief from the provisions of the fourth section, upon certain conditions, after fully considering the rates which the petitioners desired to maintain at competitive points and the higher rates which they proposed to carry to intermediate stations. In this case the Louisville & Nashville made no showing with respect to the depressed character of the lower rates which it desires to maintain for longer than for shorter hauls, nor was it shown that the rates which it proposes to continue to intermediate points are not unreasonable relatively or *per se*. That carrier's entire justification consists of a comparison of the distance over its line with that of the short line. Such a comparison is not of itself sufficient to establish a special case warranting relief from the provisions of the fourth section.

Several of the interested carriers represented that they were at present engaged in readjusting their rates in compliance with the order referred to and that when that readjustment becomes effective the departures in connection with the rates from and to the points noted would be eliminated except as permitted under that order. As no justification has been offered for the departures in question the applications will be denied to the extent that they are involved. However, in view of the fact that by amended Fourth Section Order No. 3866 of June 1, 1917, the southeastern carriers generally have been granted further time to readjust the rates on certain commodities, including petroleum and its products, in accordance with the provisions of the original order No. 3866, at which

time other commodity rates between points not directly affected by that order will also be adjusted, our order to be entered herein will not be made effective until the effective date of amended Fourth Section Order No. 3866.

Appropriate orders will be entered, but as the present rates have been in effect for more than two years no order for the future is necessary.

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No. 9201.

PENROD, JURDEN & McCOWEN

v.

MOBILE & OHIO RAILROAD COMPANY.

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PORTIONS OF FOURTH SECTION APPLICATION No. 2138.

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*Submitted January 26, 1917. Decided February 6, 1918.*

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1. Rates on walnut logs in carloads from Jackson and Aberdeen, Miss., to Memphis, Tenn., found unreasonable. Reparation awarded.
  2. Fourth section relief denied.

*J. H. Townshend* for complainant.

*Charles C. Taylor* for defendant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

By DIVISION 3:

Complainant is a corporation engaged in the manufacture and sale of lumber and veneers at Memphis, Tenn. By complaint, filed August 28, 1916, it alleges that the rates charged by defendants on five carloads of walnut logs shipped in August, 1915, from Jackson, Tenn., to Memphis, and on one carload of walnut logs shipped in September, 1915, from Aberdeen, Miss., to Memphis, were unreasonable, unjustly discriminatory, unduly prejudicial, and in violation of the fourth section. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipments from Jackson to Memphis aggregated 247,700 pounds and moved over defendant's line through Corinth, Miss., 150 miles. From Corinth to Memphis the defendant operates by track-

age rights over the Southern Railway. Charges were assessed in the sum of \$544.94 at the applicable sixth-class rate of 22 cents, governed by the southern classification. The intermediate rates contemporaneously in effect on walnut lumber, in carloads, over the route of movement were 5 cents to Corinth and 8 cents beyond, a total of 13 cents. From Gilmore, Tenn., between which and Memphis Jackson is intermediate, defendant maintained a through rate on walnut logs, in carloads, of 11 cents, and that rate is still in effect. Effective October 20, 1915, defendant established a rate of 8 cents on walnut logs, in carloads, from Jackson to Memphis. This rate, which is still in effect, is satisfactory to complainant. It was established to meet the rate in effect at the time of movement over the Nashville, Chattanooga & St. Louis Railway, 85 miles, and over the Illinois Central Railroad, 186 miles. At the time the shipments moved a rate of 8 cents was applicable over the route of movement from Jackson to Memphis on common logs and lumber, and a rate of 9 cents on walnut lumber. The latter rate was subsequently reduced to 8 cents.

The shipment from Aberdeen weighed 45,100 pounds and moved over defendant's line through Corinth, 190 miles. Charges were assessed in the sum of \$117.26 at the applicable sixth-class rate of 26 cents, governed by the southern classification. Contemporaneously defendant maintained a rate of 5½ cents on logs of all kinds, in carloads, from Aberdeen to Corinth, and a rate of 8 cents on walnut logs, in carloads, from Corinth to Memphis. On February 15, 1917, a rate of 10 cents was established on walnut logs, in carloads, from Aberdeen to Memphis, and this rate is still in effect. It was stated for defendant that this rate was reduced to meet the rates which applied over the St. Louis & San Francisco Railroad, 141 miles, and the Illinois Central, 261 miles, at the time the shipment moved. At that time a rate of 10 cents was also applicable over all the routes mentioned on walnut lumber and on common logs and lumber.

On behalf of complainant it was shown that the rates charged were considerably higher than those applicable on walnut logs in the same general territory for equal distances and that, generally, the rates on walnut logs are the same as the rates on common logs in this territory. The ton-mile earnings at the rates charged were, from Jackson, 29 mills, and from Aberdeen, about 27 mills. The present rate of 8 cents from Jackson yields about 10 mills per ton-mile and the present rate of 10 cents from Aberdeen about 10 mills.

We find that the rate charged on the shipment from Jackson was unreasonable and that charged on the shipment from Aberdeen was, and for the future will be, unreasonable to the extent that the former exceeded 8 cents per 100 pounds and the latter exceeded or may exceed 10 cents per 100 pounds. We further find that complainant made the

shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable; and that it is entitled to reparation in the sum of \$418.94, with interest.

Those portions of defendant's Fourth Section Application No. 2138 in which authority is sought to continue to charge for the transportation of walnut logs, in carloads, from Jackson and Aberdeen to Memphis rates which are higher as a through route than the aggregate of the intermediate rates were heard with the complaint. No evidence was offered in support of the application, and it will be denied.

It appears from an examination of defendant's tariffs that rates in excess of 8 cents are now published from and to stations intermediate to Jackson and Memphis under the authority of Fourth Section Order No. 2754. The 8-cent rate from Jackson to Memphis having been found in this report to be reasonable, higher rates may no longer be charged from or to intermediate points. Defendant will be expected to revise its tariffs accordingly.

Appropriate orders will be entered.

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No. 9454.

H. W. MOSBY

v.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY  
ET AL.

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PORTIONS OF FOURTH SECTION APPLICATIONS  
Nos. 458, 2043, AND 2045.

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*Submitted May 21, 1917. Decided February 6, 1918.*

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1. Charges on a carload of cypress shingles from McKenzie, Miss., to McKenzie, Tenn., not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Shipment found to have been overcharged and reparation awarded.
2. Fourth section relief denied.

*M. W. Martin* for complainant.

*A. P. Humburg* for Yazoo & Mississippi Valley Railroad Company and Illinois Central Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is engaged in the manufacture and sale of cypress shingles at McKenzie, Miss. By complaint filed January 22, 1917, he alleges that the rate charged on a carload of cypress shingles shipped from McKenzie, Miss., to McKenzie, Tenn., in November, 1916, was unreasonable, unjustly discriminatory, and unduly prejudicial, and in violation of the fourth section. Reparation is asked. Those portions of Fourth Section Applications Nos. 458 of the Nashville, Chattanooga & St. Louis Railway, 2043 of the Yazoo & Mississippi Valley Railroad Company, and 2045 of the Illinois Central Railroad Company in which authority is sought to continue rates on cypress shingles, in carloads, from Natchez and Vicksburg, Miss., to McKenzie, Tenn., lower than the rates contemporaneously applicable on like traffic from McKenzie, Miss., and from or to other intermediate points, were heard with the complaint. Rates are stated in cents per 100 pounds.

The shipment, which was unrouted, moved over the Yazoo & Mississippi Valley Railroad to Memphis, Tenn.; the Illinois Central

Railroad to Martin, Tenn.; and the Nashville, Chattanooga & St. Louis Railway beyond, 211 miles. It weighed 31,600 pounds, and charges were collected thereon in the sum of \$61.62. The rate legally applicable was a combination rate of 17.5 cents, composed of 7.5 cents to Memphis and 10 cents beyond, so that the shipment was overcharged \$6.32.

Vicksburg and Natchez are located on the Yazoo & Mississippi Valley south of McKenzie, Miss., the latter point being intermediate from the points mentioned to McKenzie, Tenn. At the time the shipment moved, and at present, rates of 13 cents applied and apply on cypress shingles, in carloads, from Natchez and 14 cents from Vicksburg to McKenzie, Tenn., over the Yazoo & Mississippi Valley to Memphis and the Nashville, Chattanooga & St. Louis beyond.

For complainant it is contended that the rate charged was unreasonable and unjustly discriminatory to the extent that it exceeded 13 cents. No shingles are manufactured at Natchez or Vicksburg, and the rates from these points were and are paper rates. For the Yazoo & Mississippi Valley and Illinois Central, the only defendants represented at the hearing, it was testified that, while the Nashville, Chattanooga & St. Louis is shown as concurring in the publication of these rates, it did not specifically authorize the publication of these rates; and that apparently there has never been any movement from Vicksburg or Natchez in connection with the Nashville, Chattanooga & St. Louis. It was further stated to be the intention of the Yazoo & Mississippi Valley to cancel these rates in connection with the Nashville, Chattanooga & St. Louis, thereby correcting the fourth section departures. Fourth section relief will be denied.

By way of comparison, there were cited numerous rates on shingles between various points in this general territory. For defendants it is asserted that the combination basis used in constructing rates from McKenzie, Miss., is the same as that observed from all points in the south and southwest and that McKenzie is at no disadvantage in this regard.

McKenzie, Tenn., has a population of approximately 1,100. It is shown that for the year ended April 30, 1917, 117 carloads of shingles were shipped from McKenzie, Miss., of which but one went to McKenzie, Tenn.; and that only five carloads were received there from all points during the same period, of which four came from Pacific coast points.

We find that the charges legally applicable are not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial, but that the charges collected were illegal to the extent that they

exceeded the charges that would have accrued at a rate of 17.5 cents per 100 pounds; that complainant made the shipment as described and paid and bore the charges thereon at the rate herein found illegal; that he was damaged to the extent of the difference between the charges paid and those that would have accrued at the rate legally applicable; and that he is entitled to reparation in the sum of \$6.32, with interest.

Appropriate orders will be entered.

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No. 8727.

KNIGHT WOOLEN MILLS

v.

DENVER & RIO GRANDE RAILROAD COMPANY ET AL.

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*Submitted December 21, 1916. Decided February 6, 1918.*

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Rates legally applicable on certain carloads of wool in the grease from Nelson, now Ellison, and Winnemucca, Nev., to Smoot and Provo, Utah, found to have been unreasonable. Reparation awarded.

*H. W. Prickett* and *W. S. McCarthy* for complainant.

*Allan P. Matthew* for Western Pacific Railroad Company.

*E. N. Clark* for Denver & Rio Grande Railroad Company.

*George D. Squires* for Southern Pacific Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

By DIVISION 3:

Complainant is a corporation engaged in the manufacture of woolen goods at Provo, Utah. By complaint, filed March 13, 1916, as amended, it alleges that the charges collected by defendants on eight carloads of sacked wool in the grease shipped in July, 1913, from Nelson, now Ellison, Nev., to Smoot, Utah, and on a mixed carload of sacked and baled wool in the grease shipped in August, 1915, from Winnemucca, Nev., to Provo were unreasonable. Complainant asks reparation and the establishment of reasonable rates. Claims covering the shipments to Smoot were presented to the Commission informally within the statutory period. At the hearing the Western Pacific Railroad Company, the present owner of defendant Western

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Pacific Railway, with consent of its counsel, was made a party defendant with respect to the reasonableness of the present rate. Rates are stated in amounts per 100 pounds.

The shipments from Ellison moved over the Western Pacific to Salt Lake City, Utah, and beyond over the Denver & Rio Grande Railroad. They aggregated 199,502 pounds and charges were collected thereon in the sum of \$2,374.07 at a rate of \$1.19. The rate legally applicable was \$1.21, composed of the second-class rate of 96 cents, any quantity, Ellison to Salt Lake City, and the fourth-class rate of 25 cents, minimum 24,000 pounds for cars 36 feet 6 inches or less in length, subject to rule 6-B of the western classification, which governed, to Smoot. The weights of three of the shipments, which aggregated 93,988 pounds, were in each instance greater than the minima prescribed for the cars used. Two of the shipments, which weighed 24,198 and 21,829 pounds, respectively, were loaded in 37-foot cars, for which the applicable minimum was 24,720 pounds. The remaining three shipments, which weighed 20,492 pounds, 19,532 pounds, and 19,463 pounds, respectively, were loaded in 36-foot cars, for which the applicable minimum was 24,000 pounds. There is therefore an aggregate undercharge of \$79.72 on these shipments.

The shipment from Winnemucca consisted of 14,602 pounds of baled wool in the grease and 10,346 pounds of sacked wool in the grease. It moved over the lines of the Southern Pacific Company, Oregon Short Line Railroad, and San Pedro, Los Angeles & Salt Lake Railroad, now the Los Angeles & Salt Lake Railroad, to Provo. It was loaded in a 40-foot car, but the bill of lading shows that a 36-foot car was ordered and that the larger car used was furnished for the carriers' convenience. Charges were collected in the sum of \$301.81, at the legally applicable combination rates of \$1.28 on the sacked wool and \$1.16 on the baled wool, composed of the second-class rate of \$1.05, any quantity, on the sacked wool, and the third-class rate of 93 cents, any quantity, on the baled wool, to Salt Lake City, and the fourth-class rate of 23 cents, minimum 24,000 pounds, applicable on wool in the grease, in sacks or bales, to Provo.

On September 1, 1916, the western classification established a fourth-class rating on wool in the grease, in sacks or bales, in carloads, minimum 24,000 pounds, subject to rule 6-B. At the time the shipments moved and at present the fourth-class rates from Ellison and Winnemucca to Salt Lake City were and are 69 cents and 74 cents, respectively, thus making the present rates on this traffic from Ellison to Smoot 94 cents and from Winnemucca to Provo 97 cents. The complaint, as amended, asked for the establishment of rates of 78 cents from Ellison to Smoot and 83 cents from Winne-

mucca to Provo, which rates were arrived at by projecting the present fourth-class rates between the points of origin and Salt Lake City to Smoot and Provo upon a distance basis. At the hearing it was contended for complainant that the rates were unreasonable to the extent that they exceeded the rates from the points of origin to Salt Lake City. It was shown that Provo, like Salt Lake City, is classed as a Utah common point on traffic moving from Colorado common points and east thereof and from Pacific coast terminals; and that the fourth-class rate of 69 cents from Ellison applies to Ogden, Utah, the same as to Salt Lake City in connection with the Denver & Rio Grande, Ogden being 37 miles north and Provo 44 miles south of Salt Lake City.

For defendants it is urged that different lines control the rates to and from Ogden and Salt Lake City, respectively, and that geographical and competitive conditions, not existing at Provo, compel the carriers to place Ogden and Salt Lake City upon a parity. Defendants' witnesses testified that wool in the grease normally moves throughout the intermountain territory under class rates; that with the exception of the shipments in issue, no wool has moved from Ellison to Provo, Smoot, or any other Utah point during the past three years; and that the movement from Winnemucca to Utah points is negligible.

A witness for complainant testified that prior to the movement of the shipments to Smoot he instructed an agent of the initial carrier to load the shipments so as to secure the lowest available rate and that, as was customary at that time, the wool was loaded by the initial carrier. It is contended for complainant that it was the duty of the initial carrier so to load the shipments that they would come within the minimum provision from Salt Lake City to Smoot, and that having failed to do so reparation should be computed on basis of the actual weight of the shipments. No evidence was offered to show whether or not the cars were loaded to full capacity or whether the shipments could have been loaded so that the charges beyond Salt Lake City would have accrued on basis of the actual weight.

*In re Transportation of Wool, Hides, and Pelts*, 23 I. C. C., 151, and *In re Wool, Hides, and Pelts*, 25 I. C. C., 185, we found that certain rates and regulations applied to the transportation of wool in the grease from western territory to eastern markets were unreasonable, and, among other things, recommended that wool in sacks or bales be classified under the western classification as second class in less than carloads and fourth class in carloads, with a minimum of 24,000 pounds in a standard 36-foot car and correspondingly higher minima in case of larger equipment. No formal order for the future

was entered, but the carriers, generally, complied with the suggestions made therein. The Southern Pacific and Western Pacific did not establish the suggested ratings on this traffic until the western classification was amended as above stated.

We find that the rates legally applicable on these shipments were unreasonable to the extent that the components thereof applicable from Ellison and Winnemucca to Salt Lake City exceeded 69 cents per 100 pounds and 74 cents per 100 pounds, respectively, minimum of 24,000 pounds for a 36-foot car, subject to rule 6-B of the western classification. We further find that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges collected and the charges that would have accrued at the rates herein found reasonable; and that it is entitled to reparation from the Western Pacific Railway Company and its receivers and the Denver & Rio Grande Railroad Company in the sum of \$349.05, with interest; and from the Southern Pacific Company, the Oregon Short Line Railroad Company, and the Los Angeles & Salt Lake Railroad Company in the sum of \$59.81, with interest. Collection of the undercharges mentioned may be waived.

As the rates herein found reasonable have been in effect since September 1, 1916, no order for the future is necessary.

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No. 9274.  
**FLANLEY GRAIN COMPANY**  
v.  
**CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY  
COMPANY ET AL.**

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*Submitted March 26, 1917. Decided February 6, 1918.*

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Charges legally applicable on bulk corn in carloads from Hospers, Iowa, to Atchison, Kans., not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

*C. E. Childe* for complainant.

*O. C. Sherer* for defendants.

**REPORT OF THE COMMISSION.**

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the grain business at Sioux City, Iowa. By complaint, filed October 11, 1916, it alleges that the charges collected by defendants on two carloads of bulk corn shipped from Hospers, Iowa, to Atchison, Kans., November 29 and December 1, 1913, were unreasonable, unjustly discriminatory, and unduly prejudicial. Reparation is asked. The claim was presented to the Commission informally March 22, 1915. Rates are stated in cents per 100 pounds.

The shipments were originally consigned to Council Bluffs, Iowa, and were reconsigned en route to Atchison. They moved over the Chicago, St. Paul, Minneapolis & Omaha Railway to Sioux City; Chicago & North Western Railway to Council Bluffs; Illinois Central Railroad to Omaha, Nebr.; and Missouri Pacific Railway beyond. The Illinois Central is not named as a party defendant. It merely switched the shipments from the Chicago & North Western to the Missouri Pacific, and the charges therefor were absorbed by the Missouri Pacific.

A combination rate of 17.5 cents, composed of a joint rate of 12 cents from Hospers to Council Bluffs and a proportional rate of 5.5 cents beyond, was legally applicable. On one shipment the rate legally applicable was applied; on the other a rate of 9.6 cents, based on the Iowa intrastate distance scale, was applied for the movement from Hospers to Council Bluffs. In each instance the charges

were based on a weight of 88,000 pounds from Hospers to Council Bluffs and 83,900 pounds beyond. A witness for defendants testified that the charges were assessed, as was customary, on the billed weight of the shipments from Hospers to Council Bluffs; that the shipments were not weighed until they reached destination, where they were unloaded and a weight of 83,900 pounds obtained on each shipment. It was admitted that the destination weights should govern. We find that each shipment weighed 83,900 pounds, so that one was overcharged \$4.92, and the other undercharged \$16.20. These charges should be adjusted on the basis of the applicable rate and weight.

It is contended for complainant that the component legally applicable from Hospers to Council Bluffs was unreasonable, unjustly discriminatory, and unduly prejudicial to the extent that it exceeded the rate of 9.6 cents contemporaneously applicable on intrastate traffic from Hospers to Council Bluffs and subsequently, on November 9, 1914, made applicable to interstate traffic.

The issue in this case is identical with that presented in *Iowa-Dakota Grain Co. v. I. C. R. R. Co.*, 40 I. C. C., 73, in which we found that the 12-cent rate on corn from Hospers to Council Bluffs applied on shipments destined to Atchison was not shown to be unreasonable or unjustly discriminatory and dismissed the complaint. The facts relied upon in the instant case are similar to those present in the case cited, except that in this case the rate assailed has been reduced. But the mere voluntary reduction of a rate is insufficient to justify a finding that the prior rate was unreasonable.

Upon the facts of record in this case, and following *Iowa-Dakota Grain Co. v. I. C. R. R. Co.*, *supra*, we find that the rates legally applicable are not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial.

An order dismissing the complaint will be entered.

No. 6936.<sup>1</sup>

McCAULL-DINSMORE COMPANY

v.

CHICAGO, BURLINGTON & QUINCY RAILROAD  
COMPANY ET AL.

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*Submitted November 2, 1916. Decided December 28, 1917.*

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Rates on corn in carloads from Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans., not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

*T. A. McGrath* and *S. J. McCaull* for complainant.

*W. D. Burr* for Chicago, St. Paul, Minneapolis & Omaha Railway Company and Chicago & North Western Railway Company.

REPORT OF THE COMMISSION ON REHEARING.

BY THE COMMISSION:

This case was originally decided May 3, 1915. Unreported opinion No. 2048. The complaints, filed May 21 and June 29, 1914, asked for damages due to the alleged misrouting of certain carloads of bulk shelled corn shipped from Sheldon, Iowa, to Kansas City, Mo., and one to Leavenworth, Kans. We found that the rates charged were lawfully applicable, and that the shipments were not misrouted. On September 23, 1915, the case was reopened at complainant's request for further hearing, and the complainant permitted to file an amended complaint.

It is alleged in the amended complaint that the through rates charged from Sheldon to Kansas City and Leavenworth were unreasonable, unjustly discriminatory, and unduly prejudicial to the extent that the 12-cent component north of Omaha, Nebr., and Council Bluffs, Iowa, exceeded the intrastate rate of 9.9 cents contemporaneously applicable from Sheldon to Council Bluffs. Reparation is asked. Rates are stated in cents per 100 pounds.

At the hearing complainant abandoned its claim for reparation on all the shipments covered by No. 6936 except one. The excepted shipment was delivered to the Chicago, St. Paul, Minneapolis & Omaha Railway, hereinafter called the Omaha, at Sheldon, consigned to Kansas City and routed by the shipper "care C. B. & Q. Ry. Co." No junction was shown in the bill of lading, and no joint

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<sup>1</sup> This report also embraces No. 6936 (Sub-No. 1), *Same v. Chicago, St. Paul, Minneapolis & Omaha Railway Company et al.*

rate was in effect over any route. The originating carrier transported the shipment to Sioux City, at which point it was turned over to and moved to destination by the Chicago, Burlington & Quincy Railroad. A combination rate of 17.9 cents was charged, composed of rates of 5.6 cents to Sioux City and 12.3 cents beyond. On behalf of complainant it is contended that as no junction was named an obligation rested upon the initial line to haul the shipment to Council Bluffs and there turn it over to the Burlington, in which instance the Iowa state scale of 9.9 cents would have applied, and therefore that the shipment was misrouted. For the shipment to have moved in this manner, it would have been necessary for the Chicago & North Western Railway to transport it from Sioux City to Council Bluffs. We have uniformly held that where a consignor specifies routing by a carrier which, in connection with the originating line, forms a through route from point of origin to destination, the initial carrier can not be charged with having misrouted the shipment if it bills it over that route instead of selecting a cheaper route in which those carriers participated, but with a third carrier intervening. *Stebbins v. D., L. & W. R. R. Co.*, 42 I. C. C., 150. The shipment was therefore not misrouted.

The shipments covered by Sub-No. 1 were unrouted and, with one exception, moved from Sheldon to Kansas City and Leavenworth over the Omaha to Omaha and the Missouri Pacific Railway beyond. The excepted shipment moved over the Omaha to Sioux City, Chicago & North Western Railway to Council Bluffs and Missouri Pacific beyond. No joint rates were in effect and combination rates of 17.5 cents were charged, composed of a local rate of 12 cents to Omaha or Council Bluffs and proportional rates of 5.5 cents beyond. The component south of Omaha and Council Bluffs is not assailed.

As explained in our original report, a rate of 12.4 cents applied from Sheldon to Council Bluffs, composed of a rate of 5.6 cents to Sioux City over the Omaha, and a rate of 6.8 cents from Sioux City to Council Bluffs over the Chicago & North Western. As a result of an order of the Iowa state commission, a tariff provided that where no joint rates were in effect between points in Iowa over two-line hauls the through rate would be 80 per cent of the combination of intermediate rates. On that basis the total through rates would have been 15.4 cents, composed of 9.9 cents to Council Bluffs plus the proportional rates of 5.5 cents to Kansas City and Leavenworth. However, the tariff publishing the 80 per cent basis provided specifically that it would not apply on interstate traffic unless no other rate was available. On November 9, 1914, defendants adopted the 80 per cent basis as their rate on corn from Sheldon to Council Bluffs, making it applicable on interstate traffic. For defendants it is stated that the 12-cent rate was voluntarily reduced

to the 80 per cent basis to prevent certain shippers having elevators at Council Bluffs from defeating the integrity of the through rates by shipping into the latter point at the intrastate rate and reshipping to points outside of the state of Iowa at the interstate rates. The 12-cent rate to Omaha is still in effect.

On behalf of complainant the rates assailed are compared with lower interstate rates ranging from 6.8 cents to 8.6 cents from six points on the Chicago & North Western to Council Bluffs, a one-line haul, for distances of from 97.1 to 179 miles. Similar data is shown from these same points to Omaha, the rates being from 0.4 cent to 1 cent higher than those to Council Bluffs and the distance 3 miles farther.

Complainant introduced the following rate comparisons, but used proportional rates from Peoria, Ill., to Chicago, and from Minneapolis to Duluth, Minn. We have used the local rates from and to those points.

From—	To—	Distance.	Rate.	Earnings per ton- mile.
		Miles.	Cents.	Mills.
Sheldon, Iowa.....	Kansas City.....	351	17.5	9.9
Mason City, Iowa.....	Minneapolis.....	144	9.5	13.2
Clinton, Iowa.....	Chicago.....	157	8.5	12.3
Peoria.....	do.....	155	7	9
Minneapolis.....	Duluth.....	150	8.1	10.8
Brookings, S. Dak.....	Minneapolis.....	220	12	10.9

It will be noted that the earnings on the through rate from Sheldon to Kansas City compare favorably with those on the other rates cited.

In *Iowa-Dakota Grain Co. v. I. C. R. R. Co.*, 40 I. C. C., 73, we considered a somewhat analogous situation. In that case the rates on grain from points in Iowa to Council Bluffs on shipments moving to points beyond were assailed as unreasonable and unjustly discriminatory to the extent that they exceeded the 80 per cent basis applicable intrastate. We found that the rates were not shown to have been unreasonable or otherwise unlawful. In so far as the shipment that moved through Council Bluffs is concerned those cases are controlling here. If the lower intrastate adjustment affords no basis for a finding that the interstate rates to Council Bluffs are unreasonable, certainly it has little weight in considering the reasonableness of the rates to Omaha.

Following the case cited and upon the record, we are of the opinion and find that the rates assailed are not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.

An order dismissing the complaints will be entered.

No. 9183.  
UNIT MARKETING SYSTEM ET AL.  
v.  
ST. LOUIS, BROWNSVILLE & MEXICO RAILWAY  
COMPANY ET AL.

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*Submitted March 7, 1917. Decided February 5, 1918.*

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Defendants' rule that standard refrigeration charges will be assessed on carload shipments of precooled vegetables in iced refrigerator cars, initially iced by the shipper and tendered with instructions not to re-ice in transit, not found to be unreasonable. Complaint dismissed.

*Frank H. Wash* for complainant.

*Thomas Bond* for Frisco Refrigerator Line; St. Louis & San Francisco Railway Company; and St. Louis, San Francisco & Texas Railway Company.

*Andrews, Streetman, Burns & Logue* and *R. C. Fulbright* for St. Louis, Brownsville & Mexico Railway Company; Missouri, Kansas & Texas Railway Company; Missouri, Kansas & Texas Railway Company of Texas; International & Great Northern Railway Company and their receivers.

*Robert Dunlap, T. J. Norton, F. E. Andrews,* and *James L. Coleman* for Atchison, Topeka & Santa Fe Railway Company and Gulf, Colorado & Santa Fe Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainants, the Unit Marketing System, an incorporated co-operative farmers' organization at Harlingen, Tex., and Roy Campbell, a resident of San Antonio, Tex., are engaged in the marketing of vegetables produced in the lower Rio Grande Valley in the state of Texas. By complaint, filed September 22, 1916, they allege that defendants' rules and practices relating to the assessment of refrigeration charges on carload shipments of precooled vegetables in refrigerator cars, initially iced by the shipper and tendered for carriage to interstate markets with instructions not to re-ice in transit, are unreasonable. They ask that defendants be required to accept and transport such shipments at a charge of \$7.50 per car in addition to the transportation rate.

The evidence relates principally to shipments of lettuce from San Benito and Mercedes, Tex., stations on the St. Louis, Brownsville &

Mexico Railway, hereinafter called the Brownsville line, at which precooling plants are located. The plant at San Benito, owned by complainant Campbell, has been in operation since January, 1914; the one at Mercedes, owned by a corporation in which vegetable growers, affiliated with the Unit Marketing System, are stockholders, has been in operation only during 1916. About 300 carloads of lettuce, beans, cabbage, and other vegetables have been precooled at the former, and less than 50 carloads at the latter. In 1914 the Brownsville line originated 48 carloads of lettuce; in 1915, 211 carloads, and 1916, 21 carloads. Its entire vegetable traffic during this period aggregated 7,462 carloads, of which 2,597 moved under ventilation and 4,865 under refrigeration. Ninety-five per cent of the lettuce shipments moved to or through St. Louis, Mo.

The practice of precooling vegetables is of comparatively recent origin and is followed only to a limited extent. Whether precooling is necessary to the safe transportation of vegetables is controverted. Ordinarily lettuce packed in hampers will heat and deteriorate rapidly unless it is promptly refrigerated. By storing it in the precooling plants in question for periods ranging from 36 to 48 hours, its temperature may be reduced nearly to the freezing point. About the same time is required to extract the latent or field heat when the lettuce is loaded directly into iced refrigerator cars, but it is said that hampers loaded in the middle of the car can not be thoroughly cooled within that time. It was testified in complainants' behalf that formerly about 70 per cent of their nonprecooled shipments sustained damage in transit but that they have never presented claims for damage on precooled shipments. For defendants it is contended that if lettuce is in good condition when shipped, it will carry safely whether precooled or not. It appears that when lettuce is infected with field diseases, as is often the case, neither precooling nor refrigeration will prevent its rapid deterioration. If nonprecooled lettuce reaches the market in good condition it brings the same price as precooled lettuce of equal quality. The principal advantages of precooling are that it affords an opportunity to assemble into one shipment lettuce of uniform quality and that by arresting at the outset the natural tendency to decay, a greater proportion reaches the market in good condition. It was testified for complainants that they would continue the practice even though the present refrigeration rules and charges are maintained.

Complainants contend that precooled vegetables loaded into fully iced refrigerator cars will carry safely without re-icing in transit, and they are willing to release defendants from all damage resulting from improper refrigeration if the shipments are transported within

the usual time. Whether this method is a satisfactory or practical substitute for standard refrigeration has not been demonstrated. When shipments are moved under refrigeration defendants furnish pre-iced refrigerator cars, which are re-iced after loading and at all regular icing stations en route, regardless of the shipper's instructions to the contrary. Full refrigeration charges were assessed on all shipments moved in iced refrigerator cars. In the re-icing of precooled shipments to St. Louis about 3,000 pounds less ice is required than in the case of nonprecooled shipments. The method of storing shipments in cars is the same in either event and but little, if any, increase in the carload weight results from precooling.

The Brownsville line owns no refrigerator cars. Under a contract, effective until December 31, 1917, the Frisco Refrigerator line furnished the cars and refrigeration service, receiving therefor the entire refrigeration charges and an allowance of three-fourths cent per mile for the loaded and empty car movement. It is stated that that line, and other refrigerator car companies as well, will decline to furnish cars to the Brownsville line if shippers should be permitted to ice cars initially and to control the re-icing en route unless they are paid a substantial bonus in addition to the charge of \$7.50 per car which complainants propose. It is shown for the Frisco Refrigerator line that its operations as a whole have resulted in a loss of \$10.44 per car per year.

The cars used in the transportation of this traffic average less than one and one-half trips each season. It was stated for the Brownsville line that it has little use for refrigerator cars except during the short vegetable shipping season, and that it is financially unable to own the required number; and urged that if complainants' demands are granted it will sustain serious loss through the exaction of bonuses by the refrigerator lines and because it has contracted to purchase yearly a fixed quantity of ice, which would largely exceed its requirements in the event shipments under standard refrigeration are materially curtailed. There was a surplus last season of about 2,300 tons of ice, for which it had to pay approximately \$8,000. Also that its obligation to be prepared to furnish the maximum refrigerator service would not be lessened, for the reason that the volume of movement under refrigeration would be uncertain and could not be predetermined. Complainants express willingness to purchase ice from the Brownsville line for the initial icing of their shipments if permitted to do so. At present the precooling plants are not equipped for the manufacture of ice in sufficient quantities to supply complainants' needs in that respect.

It is further urged for defendants that neither the producers nor the consumers would be benefited by the proposed arrangement. The

charge for precooling lettuce at the plants referred to ranges from \$52 to \$90 per car. The cost of initially icing a refrigerator car varies from \$21 to \$27. Including the charge of \$7.50 per car which complainants propose to allow the carriers, the cost to the shipper, who has to pay for precooling his vegetables, would largely exceed the standard refrigeration charges to St. Louis or Chicago. It is stated on behalf of complainants that the cost would be less than that of standard refrigeration to the more distant points, such as New York. The precooling charge at the Mercedes plant is paid by all who use that plant, including the stockholders. If its operations should result in profits the stockholders would receive dividends, but the plant has not been in operation long enough to determine whether or not the enterprise will be a financial success. It is also contended for defendants that the combined transportation and refrigeration charges, neither of which is attacked herein, yield low earnings per car-mile. They contrast their earnings, on average carloads, of 11.6 cents per car-mile to Chicago under the present rates and 7.4 cents per car-mile under the proposed rates with an earning of 17.4 cents per car-mile on precooled oranges from California to Chicago.

Complainants rely upon *Arlington Heights Fruit Exchange v. S. P. Co.*, 20 I. C. C., 106, as establishing their right to the relief asked, but the facts in this case are substantially different. In the case cited it was shown that precooled citrus fruits loaded in cars precooled and pre-iced by the shipper and moved to destination within the usual time required no re-icing or further attention by the carriers; that the nature of the service was such that it could be efficiently and economically performed only by the shipper and that the carriers offered no satisfactory substitute service; that the service demanded would result in a saving to the public of several hundred thousand dollars annually; and that due to heavier loading the carriers' revenue per car on precooled shipments largely exceeded that on shipments moved under standard refrigeration. Although the carriers insisted that the pre-icing of cars was a part of the refrigeration or transportation service which the law required them to furnish and gave them the exclusive right to perform, they had voluntarily permitted shippers to precool and pre-ice cars and had established a charge applicable to the transportation of precooled shipments which was about one-half the standard refrigeration rate. Upon the particular facts of record in that case, it was held that precooling and pre-icing were a part of the preparation of the car for shipment rather than a part of the transportation service; that in the absence of an offer by the carriers to provide the same or a substantially similar service for practically the same cost, shippers

could not be denied the right to perform the service at their own expense; and that the carriers were only entitled to impose an additional charge for transportation which would compensate them for the extra expense and afford a reasonable profit.

This decision furnishes no basis for an assumption that where carriers offer to provide and do provide a refrigeration service, which is the same or substantially the same as that demanded by shippers generally and which is reasonably well adapted to the particular traffic involved, a shipper may elect to perform a part of the service for himself and thereby secure a lower rate than that which the carrier has established for the entire service, and which is available to the majority of shippers. Such a course would disrupt the service, prevent the economical and efficient performance of the carrier's obligation to the general public, and would ultimately impose an unwarranted additional burden upon other shippers and other classes of traffic. Questions of this kind must be decided with reference to the particular facts of each case, and upon the facts of record herein we find that the rules and practices attacked are not shown to be unreasonable. An order dismissing the complaint will be entered.

48 I. C. C.

No. 7781.  
**SRERE BROTHERS & COMPANY**  
v.  
**CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS  
RAILWAY COMPANY ET AL.**

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*Submitted October 4, 1916. Decided February 5, 1918.*

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Increased rating in official classification territory on wet rag pulp, in carloads, found justified. Complaint dismissed.

*R. Otto Baumann and Alfred A. Srere* for complainants.

*D. P. Connell* for Cleveland, Cincinnati, Chicago & St. Louis Railway Company; Cincinnati Northern Railroad Company; New York Central Railroad Company; and Michigan Central Railroad Company.

*R. N. Collyer, C. P. Stewart, and A. L. Viles* for defendants.

**REPORT OF THE COMMISSION.**

**BY THE COMMISSION:**

Complainants are Albert Srere and Harry Srere, copartners, engaged in manufacturing rag pulp at Franklin, Ohio, under the name of Srere Brothers & Company. By complaint, filed February 25, 1915, as amended, they attack as unreasonable and unjustly discriminatory the fifth-class rating applied by defendants on shipments of wet rag pulp, in carloads, in official classification territory. Reparation and the establishment of a reasonable rating are asked.

Prior to April 1, 1914, no specific rating was provided in the official classification on rag pulp, wet or dry, in the absence of which, and under rule 23 of the classification covering by analogy articles not provided for therein, the commodity took the sixth-class rates applicable on wood pulp, in bales, carload minimum 36,000 pounds. On the date mentioned rag pulp, in bales, in carloads, minimum 30,000 pounds, was rated fifth class; and as both wet and dry pulp were thus included, fifth-class rates were applied to subsequent shipments, on which reparation is sought, and which consisted of rag pulp containing approximately 50 per cent water.

Complainants do not contend that the fifth-class rates, as such, are unreasonable, nor are they concerned with the rating on the so-called dry rag pulp, which contains only atmospheric moisture. Conceding that the carriers are entitled to fair rates on the water contained in

wet pulp, they urge that by reason of the high degree of the moisture content and the lower value of that pulp per unit of weight complainants' shipments should be entitled to a lower rating. It was testified that while the classification minimum is 30,000 pounds the wet pulp will load to more than double that amount; that wood pulp is shipped both wet and dry, and, under exceptions to the official classification, wet wood pulp is accorded 90 per cent of the sixth-class rates from and to certain points; that rag pulp and wood pulp are used for several common purposes, are similar in appearance, and are shipped in much the same manner; and that per cubic foot the wet pulp loads much the heavier. They complain that they are at a disadvantage in that imported wood pulp, with which they compete, is shipped dry, and that the freight charges thereon are therefore about one-half of those for an equal quantity of the wet rag pulp. They also point to a rating of 16½ per cent less than sixth class provided, under exceptions to official classification, on asphalt shingles and roofing paper, which are manufactured from rag pulp; and ask that we prescribe a rating on wet rag pulp, in carloads, not in excess of that contemporaneously applicable to wet wood pulp under the above-mentioned exceptions, with a minimum as high as 50,000 or 60,000 pounds.

Rag pulp is made principally from cotton and linen and some woolen rags; also, to some extent, from jute and hemp. These raw materials, which are received by complainants from various points, are sorted and cut, put into a rotary and cooked with soda and caustic, washed, cleaned, and ground to pulp form, and rolled into sheets. These sheets are used with the fiber in its original length, containing about 50 per cent water, and are wrapped in wax paper, in bundles. The bundles weigh about 100 pounds each and measure 30 by 16 by 7½ inches. They are generally shipped in carloads, the average loading being about 50,000 pounds. Various grades of the pulp are manufactured by complainants, and the present values are said to range from \$90 to \$160 per ton, dry. Imported rag pulp, dry, runs as high as \$200 per ton. The value of wood pulp, dried, is said to range from about \$15 to \$18 per ton for the mechanical and from about \$55 to \$60 per ton for the chemical pulp. The official and southern classifications rate wood pulp, wet or dry, in carloads, sixth class. In the western classification it is accorded class "C" rates. The southern classification rates rag pulp, in carloads, fifth class, and, while no rating is now provided in the western, a fifth-class rating is proposed.

Complainants, who began the manufacture of rag pulp in 1911, are the only shippers of domestic rag pulp, their annual output being about 100 carloads. It is used in competition with imported wood

pulp, and apparently to some extent with imported rag pulp, in making the higher grades of paper; also, in connection with wood pulp in making paper of certain kinds, as rag pulp contains desirable qualities lacking in wood pulp. It is also used for various other purposes, including the manufacture of cover papers, vulcanized fiber for electrical, railroad, and truck work, guncotton and filter mass. Complainants ship their rag pulp wet because thus far they have been unable to produce a wholly satisfactory dry pulp and the manufacturers who purchase from them prefer it wet. In that state it is more easily and quickly saturated with water, which is necessary before it is put in the beaters to be torn apart. If first dried the fibers would become entwined, in which state they would be torn in the beaters and the strength of the pulp impaired.

As the rating assailed represents an increase subsequent to January 1, 1910, the burden of justifying its reasonableness is upon the defendants. On their behalf it is insisted that it is not unreasonable, and that the rating formerly applicable was not in harmony with the general principle that the finished product should take a higher rating than the raw material from which it is made. It is pointed out that rags, from which the pulp is made and which are worth about \$35 per ton, are rated sixth class; and that, while rag pulp is used in manufacturing paper, it is also used in manufacturing various other articles, including vulcanized fiber, which, in carloads, is rated fourth class. It is further observed that rag pulp is in fact principally recovered cotton, and that all cotton articles, in carloads, are rated fifth class or higher; for example, cotton waste, in carloads, is rated fifth class, and cellulose, in carloads, fourth class.

In answer to complainants' observation that the principle that the finished product should take a higher rating than the raw material is disregarded in classifying wood pulp, in that both the pulp and the logs from which it is manufactured are rated sixth class, it is stated for defendants that this exception is due to the great volume of movement and the intensive competition among paper mills present in the wood pulp adjustment, which does not obtain with respect to rag pulp. Further, it is testified in defendants' behalf that the wood pulp moving regularly and in the largest quantities is mechanical pulp, the value of which ranges from \$15 to \$18 per ton, dry. It is also shown that, while certain carriers provide, by exceptions to the official classification, a rating of 90 per cent of sixth class on wet wood pulp, this rating is higher than that provided in the same exceptions on dry wood pulp, which, in carloads, is rated 80 per cent of sixth class. Water, in carloads, also is rated fifth class.

From the testimony for complainants it appears that their disadvantage resulted from competition with imported wood pulp prior

to the European war and was due, not so much to any maladjustment of rates as to the fact that complainants shipped their pulp wet, while the imported pulp was shipped dry. The record discloses that the importations from Europe have ceased, for the time being at least. From a classification standpoint the present carload rating on wet rag pulp appears to be normal and reasonable, and defendants should not be required to balance the unequal commercial or shipping conditions by shrinking their revenues.

Upon all of the facts of record we find that the rating assailed has been justified. An order dismissing the complaint will be entered.

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No. 8974.

SHOWERS BROTHERS COMPANY ET AL.

v.

ANN ARBOR RAILROAD COMPANY ET AL.

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*Submitted December 22, 1916. Decided February 5, 1918.*

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Ratings applied by defendants in official classification territory on kitchen cabinets and kitchen-cabinet tables, in less than carloads, increased since January 1, 1910, found justified, and those not so increased not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

*C. S. Bather* for complainants and interveners.

*Ernest S. Ballard* and *R. N. Collyer* for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainants and interveners, hereinafter called complainants, are corporations engaged in the manufacture of kitchen cabinets and, in some instances, of kitchen-cabinet tables at various points in Indiana and at Niles, Mich. By complaint filed June 19, 1916, it is alleged that the official classification ratings on kitchen cabinets, or kitchen cabinets and tables combined, and kitchen-cabinet tables, kitchen tables with bins and drawers, are unreasonable, unjustly discriminatory and unduly prejudicial, and that the descriptions and packing requirements in connection therewith are unreasonable. Reparation and the establishment of reasonable ratings, descriptions, and packing requirements are asked.

The provisions assailed follow:

	Class.	
	L. C. L.	C. L.
Furniture:		
Kitchen cabinets, or kitchen cabinets and tables combined:		
S. u., wrapped or in boxes or crates.....	D1	.....
Tops and bases separated only, wrapped or in boxes or crates.....	1½	.....
Doors, bins, shelves, drawers, bread boards and other parts detached and enclosed in cabinet, sides of bases folded, in boxes or crates .....	1½	.....
Tops and bases separated, tops k. d., legs detached from bases, wrapped or in boxes or crates.....	1	.....
Kitchen cabinet tables (kitchen tables with bins and drawers):		
S. u., wrapped or in boxes or crates.....	1½	.....
Legs detached, wrapped or in boxes or crates.....	1	.....
Kitchen cabinets or kitchen cabinets and tables combined, or kitchen cabinet tables (kitchen tables with bins and drawers), in packages provided for l. c. l. shipments, straight or mixed c. l., min. wt. 12,000 lbs. (subject to rule 27).....	.....	3

Prior to January 1, 1916, the following descriptions and ratings were in effect:

	Class.	
	L. C. L.	C. L.
Cabinets:		
Kitchen, and kitchen cabinets and tables, combined:		
S. u.:		
Wrapped, crated or boxed .....	1½	.....
Min. wt. 12,000 lbs. (subject to rule 27).....	.....	3
K. d. (not flat):		
Wrapped, crated or boxed .....	1	.....
Min. wt. 12,000 lbs. (subject to rule 27).....	.....	3
K. d. flat:		
Wrapped, crated or boxed .....	2	.....
Min. wt. 24,000 lbs. (subject to rule 27).....	.....	4

The present description and packing requirements were formulated by the Committee on Uniform Classification, hereinafter called the uniform committee, and all but one or two of complainants' witnesses conceded that they had experienced no difficulty in complying therewith. The objections urged by these witnesses have been substantially met by certain proposed changes in the descriptions and packing requirements recommended by the uniform committee after consideration of the evidence in the cases, which changes in our opinion should be incorporated in the official classification.

No increase was effected on January 1, 1916, in the carload rating except that resulting from the elimination of the description "k. d. flat," which method of shipment was not being used. The present carload rating is satisfactory to complainants. The ratings and descriptions hereinafter shown apply on less-than-carload shipments, unless otherwise noted. Prior to January 1, 1916, kitchen-cabinet tables, set up or with legs detached, took one and one-half times first class, under "tables, n. o. s., s. u." The burden of justifying the ratings increased since January 1, 1910, is upon defendants.

Complainants, who produce over 70 per cent of the kitchen cabinets manufactured in the United States, are principally interested in the ratings on kitchen cabinets shipped with tops and bases separated only and on kitchen-cabinet tables. The former are seldom, if ever, shipped set up. The third and fourth items in the present descriptions cover methods of shipment peculiar to two manufacturers who are not parties to this proceeding.

Considerable evidence was introduced to show that the increased ratings will curtail complainants' existing markets and reduce their profits. But these considerations do not control in determining the reasonableness of transportation rates. *Transportation of Cooperage*, 24 I. C. C., 656, 659. *So. Pac. v. I. C. C.*, 219 U. S., 433.

Complainants contend that by rating kitchen cabinets, in carloads, third class, while rating other articles of furniture, such as buffets and china closets, in carloads, second class, defendants have recognized kitchen cabinets as being a cheaper grade of furniture, and therefore entitled to a less-than-carload rating at most no higher than the less-than-carload rating on such other articles of furniture.

Prior to January 1, 1906, the official classification rated kitchen cabinets, both set up and with tops and bases separated only, one and one-half times first class under the description "kitchen cabinets, n. o. s." On that date the descriptions "s. u.," with a rating of one and one-half times first class, and "k. d. (not flat)," with a rating of first class, were established. These ratings were carried forward until January 1, 1916. Originally the kitchen cabinet consisted of a cheap kitchen table with drawers, upon which was placed a kitchen safe or cupboard with glass doors, and the original ratings were the same as for kitchen safes. In 1913 a question arose with respect to the propriety of applying the first-class rating provided for kitchen cabinets, k. d., not flat, on kitchen cabinets with tops and bases separated only. The Official Classification Committee investigated the matter and ruled that where the weight density was increased first class was applicable but that where no such increase resulted the set-up rating of one and one-half times first class was applicable. As authority for this ruling *Fond du Lac Church Furnishing Co. v. C., M. & St. P. Ry. Co.*, 21 I. C. C., 481, was cited. We there said:

The term "knocked down" has a definite and well-understood meaning in railroad terminology; it involves taking apart the article shipped in such manner as to reduce materially the space occupied. Merely separating the article into parts and crating them, without reducing the bulk, would not constitute knocking down in such a manner as to justify a reduction in the rate.

Complainants argue that the long continuance of the ratings in effect prior to January 1, 1916, and the above-mentioned finding of

the Official Classification Committee are evidence of the reasonableness of the prior rating and that no showing has been made of a change in conditions which would justify the increase. Defendants contend that the history of the ratings shows that the normal rating on cabinets with tops and bases separated only is one and one-half times first class, and that but for the "creeping in" of the "k. d., (not flat)" item, the origin and purpose of which, it is alleged, can not be ascertained, that rating would have continued in force.

Defendants rely principally upon weight density as justifying the ratings assailed. They take the position that when the furniture group as a whole was accorded its relative position in the classification between second class and three times first class, inclusive, other elements affecting classification were considered, but that in rating articles within the general group all elements except weight density should be ignored, for the reason that with respect to such light and bulky articles weight density is of such paramount importance from a transportation standpoint as to submerge all other factors. In any event, it is urged, other elements of classification, even if considered, are not such, in so far as this particular case is concerned, as to overthrow the conclusions arrived at by the Official Classification Committee. Complainants' objection to defendants' weight-density theory is that it is an arbitrary method of determining ratings and does not take into consideration other elements ordinarily affecting classification, such as value, risk, desirability of traffic, etc.

Weight density, however, is a very material factor in determining the relative cost of transportation, and therefore a distinction in rating based thereon, if fairly made, can hardly be termed arbitrary. Where the other factors are substantially uniform, weight density may become the dominant factor in classification. It would be impracticable to differentiate as between furniture of different values, grades of wood, or degrees of finish. The record fails to disclose any material differences in other classification elements between the articles in question and other articles of furniture with which comparisons are made.

The wholesale prices of the kitchen cabinets manufactured by complainants range from \$5.85 to \$54 each, with an average price of \$16.05. The great bulk of the movement consists of cabinets of the average price or less. The average wholesale prices of other articles of furniture are given by complainants as follows: Library book-cases, \$12.86; buffets, \$16.78; dressers and bureaus, \$12.92; china cabinets, \$13.88; music cabinets, \$6.79; chiffoniers, \$8.87; commodes, \$4.43; and washstands, \$3.68.

Claims for loss and damage on kitchen cabinets are small, and the volume of traffic is considerable, but the same is apparently true in

connection with other articles of furniture. Nor does the evidence with respect to desirability of traffic show any advantage for kitchen cabinets over other articles of furniture.

The following data, based on information filed with the Official Classification Committee, are presented:

Description.	Average weight per cubic foot.
Kitchen cabinets, or kitchen cabinets and tables combined:	Pounds.
S. u., wrapped or in boxes or crates.....	4.5
Tops and bases separated only, wrapped or in boxes or crates:	
Wood.....	6.1
Steel.....	8.1
Doors, bins, shelves, drawers, bread boards and other parts detached and enclosed in cabinet, sides of bases folded, in boxes or crates.....	7.28
Tops and bases separated, tops k. d., legs detached from bases, wrapped or in boxes or crates.....	11.6
Kitchen cabinet tables (kitchen tables with bins and drawers):	
S. u., wrapped or in boxes or crates.....	4.1
Legs detached, wrapped or in boxes or crates.....	6.6

Complainants show that the average weight of over 58,000 kitchen cabinets, shipped with tops and bases separated only, was 6 pounds per cubic foot. Apparently none of the complainants manufacture steel cabinets and no evidence with respect thereto was adduced.

It is asserted that the ratings are sustained by *Globe-Wernicke Co. v. B. & O. R. R. Co.*, 31 I. C. C., 274; *National Commercial Fixture Mfrs. Asso. v. A. A. R. R. Co.*, 40 I. C. C., 484; and *Michigan Seating Co. v. G. T. W. Ry. Co.*, 40 I. C. C., 503.

In the first case we considered the official classification rating on sectional bookcases; in the second, on "store or office fixtures," consisting of clothing cabinets, counters, partitions, shelving, shelving bases, showcases, showcase frames, and wall cases; and in the third, on fiber furniture. In none of these cases was our finding based solely upon weight density, due consideration being accorded to other elements affecting classification and to comparisons with other articles.

Defendants submitted exhibits showing that the cubic foot weights of the set-up articles considered in the *National Commercial Fixture Mfrs. Asso. Case, supra*, which are rated one and one-half times first class, range from 4.5 pounds to 8.7 pounds, the average being 6.29 pounds; that the cubic foot weights of the knocked-down articles considered in the same case, which are rated either first or second class, range, for the former, from 9 pounds to 22.5 pounds, with an average of 12.9 pounds, and, for the latter, from 9.8 pounds to 16.4 pounds, with an average of 12 pounds; and that the cubic foot weights of the articles considered in *Michigan Seating Co. v. G. T. W. Ry. Co., supra*, which are all rated three times first class, range

from 0.94 pounds to 5.9 pounds, with an average of approximately 3 pounds. A representative of the Official Classification Committee testified in explanation of the apparent inconsistency, weight density alone considered, in the ratings on knocked-down articles concerned in the *National Commercial Fixture Mfrs. Asso. Case, supra*, that the articles rated first class contained a large amount of glass.

In the *Globe-Wernicke Co. Case, supra*, we found the rating of one and one-half times first class on sectional bookcases, boxed, not unreasonable. It appeared that the average weight of complainant's bookcases packed in boxes of double-faced corrugated strawboard of single thickness was slightly more than 7 pounds per cubic foot, which, it will be noted, is about a pound greater than the average weight of kitchen cabinets, tops and bases separated only.

For defendants there were mentioned numerous articles of furniture rated one and one-half times first class in the official classification. It was admitted that there were numerous inconsistencies in the ratings on furniture, based on weight density, and these ratings are being revised as new descriptions are received from the uniform committee.

It was testified that, based upon weight density, the official committee would have attached a rating higher than one and one-half times first class to the tables, set up, but that tables, n. o. s., which include practically all kinds of wooden tables, are rated one and one-half times first class and it was felt that a higher rating should not be given to kitchen-cabinet tables. The set-up table having been rated one and one-half times first class, the table with legs detached was rated first class on account of its greater weight density.

Complainants further contend that by placing the entire burden of the increases upon the less-than-carload traffic defendants prefer the large retail dealers to the undue prejudice of the small dealers, but the record is devoid of proof in support of this contention.

The complaint alleges that the ratings assailed give undue and unreasonable preference and advantage to the manufacturers of kitchen cabinets and kitchen-cabinet tables located at points in western, southern, and Illinois classification territories by reason of the application from such points to points in official classification territory of lower ratings provided in the western, southern, and Illinois classifications. Specific rates are cited in support of this contention, and several apparent departures from the long-and-short-haul rule of the fourth section are pointed out. It was testified that complainants compete with manufacturers located at points in southern and western classification territories. The fact, standing alone, that in some instances discriminatory rates, or violations of the fourth section, result from the application of different classifications,

does not necessarily justify condemnation of the ratings attacked. On the other hand a finding that the ratings have been justified does not sanction any undue discrimination or excuse any violation of any provision of the act.

Unjust discrimination is alleged because of lower ratings on other articles of furniture. The evidence as to competition is confined to the assertion that kitchen cabinets compete with cheap buffets, and with portable and built-in cupboards constructed locally. The record does not sustain this allegation.

We find that defendants have justified the ratings which have been increased since January 1, 1910, and that the remainder are not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.

An order dismissing the complaint will be entered.

48 I. C. C.

No. 9055.<sup>1</sup>  
**SWIFT & COMPANY**

v.

**PITTSBURGH, CINCINNATI, CHICAGO & ST. LOUIS  
RAILWAY COMPANY ET AL.**

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*Submitted March 14, 1917. Decided February 5, 1918.*

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Defendants' failure to provide a peddler-car service on fresh meats, packing-house products, and other articles shipped by packing houses, in less than carloads, from Chicago, Ill., to points on the Hocking Valley Railway between Columbus and Gallipolis, Ohio, and from Chicago and East St. Louis, Ill., to points on the Norfolk & Western Railway between Cincinnati, Ohio, and Columbus, on the one hand, and Naugatuck, W. Va., on the other, found to be unreasonable. Peddler-car service and maximum reasonable rates therefor prescribed for the future.

*R. D. Rynder* for complainant.

*Wilson & Rector* and *Fred C. Rector* for Hocking Valley Railway Company.

*R. Walton Moore* for Norfolk & Western Railway Company.

*Walter Nichols* for Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

**REPORT OF THE COMMISSION.**

**BY THE COMMISSION:**

Complainant is a corporation engaged in the packing-house business at Chicago, Ill. By complaints filed July 14, 1916, as amended, it alleges, in No. 9055, that defendants' charges for the transportation of less-than-carload lots of fresh meats, packing-house products, and other commodities, in peddler cars, from Chicago to points on the Hocking Valley Railway between Columbus and Gallipolis, Ohio, are unreasonable; and in Sub-No. 1 that defendants have failed and neglected to establish reasonable rates, regulations, and practices applicable to the transportation of less-than-carload lots of fresh meats, packing-house products and other commodities, in peddler cars, from Chicago and East St. Louis, Ill., to points on the Norfolk & Western Railway between Cincinnati, Ohio, and Columbus, on the one hand, and Naugatuck, W. Va., on the other. The establishment of reasonable rates, regulations, and practices is asked.

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<sup>1</sup> This report also embraces No. 9055 (Sub-No. 1), *Same v. Norfolk & Western Railway Company et al.*

Although defendants are parties to class rates applicable to the transportation of various perishable commodities in less than carloads, including fresh meats and packing-house products, to points on the Norfolk & Western and Hocking Valley, which commodities must move under refrigeration in order to arrive at destination in proper condition, they provide no less-than-carload refrigeration service for such traffic, except that the Norfolk & Western joins in a less-than-carload scheduled refrigerator car service on butter, eggs, cheese, dressed poultry, fish, and game, the details of which need not be discussed. Complainant can now ship to stations on the Norfolk & Western under the separate carload rates and minima from the point of origin to the first destination, from the first destination to the second, and so on; and to stations on the Hocking Valley under the carload rate and minimum from point of origin to final destination with an additional charge of \$5 for each stop. It is stated that these charges are prohibitive. The Norfolk & Western contends that complainant can satisfactorily distribute its products by shipping in carloads to its branch houses and thence distributing in less-than-carload lots by freight or express. Complainant maintains that this practice, which is now followed to a certain extent, is unsatisfactory because, due to the rehandling at the branch house and the shipment therefrom without refrigeration, the products do not reach destination in proper condition.

The use of peddler cars in the distribution of fresh meats and packing-house products in less than carloads has become a well-settled practice in various sections of the United States. This fact, complainant contends, demonstrates the necessity and reasonableness of the service, the operation of which is fully described in *Investigation of Alleged Unreasonable Rates on Meats*, 23 I. C. C., 656, 670; *Rules Governing Shipments of Freight in Peddler Cars*, 32 I. C. C., 428, 429; and *Peddler Car Minimum*, 43 I. C. C., 139, and need not be detailed here. The service is accorded on substantially all lines in central freight association territory, including the Pittsburgh, Cincinnati, Chicago & St. Louis Railway; and also the Baltimore & Ohio Railroad and the Chesapeake & Ohio and the Virginian railways, which serve the same general territory as the Norfolk & Western and the Hocking Valley.

Complainant does not ask that defendants be required to furnish refrigeration, the equipment, or any additional train service, but merely that the car be handled as an ordinary carload shipment to the first point on the line upon which the shipments are to be delivered, and thereafter in the regular local way freight service, the charges therefor to be based upon the established less-than-carload rates from the point of origin to the destination of each consignment, subject to a

revenue minimum per car equivalent to 20,000 pounds at the carload rate on dressed beef to the highest rated destination. It was stated for complainant that it has no objection to the loading in the peddler cars of other freight, perishable or nonperishable, which will not contaminate its shipments, nor against consolidation in one car of the contents of two or more cars, where the loads have decreased, even though such cars may contain shipments of different packers. These practices, it is asserted, are now followed in the peddler-car service on other lines. It is suggested on behalf of complainant that rules governing the service be established in substantial conformity with those published by central freight association lines generally.

The Norfolk & Western and the Hocking Valley contend that there is no present public demand for the service, and their witnesses testified that no requests for its establishment had been received except from a number of other packers. The Hocking Valley contends that at present complainant has no trade along its line requiring this service, but that its establishment might increase the volume of traffic and necessitate the furnishing of icing facilities and refrigerator cars. Whether that result would be objectionable is not an issue herein.

Defendants express considerable apprehension that if the establishment of this service is required, it will result in future extensions thereof to other portions of their lines, to other packers, to other commodities, perishable and nonperishable, handled by packing houses and other shippers, and in the addition of new features to the rules. Complainant rightly observes that the question of the extension of the service can be determined when it arises. If the service is established, it will, of course, be open to all who desire to avail themselves of it, and defendants may not be required to establish such service except upon reasonable terms.

Complainant desires to ship in peddler cars fresh meats, most of the commodities generally included in the classifications and tariffs under the term "packing-house products," and a few other articles handled by it, and generally by all of the large packers, such as soap, dairy products, oleomargarine, etc. Fresh meats are highly perishable and must be shipped under refrigeration, and it appears that refrigeration is also necessary for a number of packing-house products when transported for distances such as are here considered. Defendants contend that by permitting the packers to ship nonperishable commodities, as, for example, meats in tin and glass, in peddler cars, other dealers in such articles will be unduly prejudiced; and that the peddler-car service will unduly prefer the large packers to the prejudice of local butchers or dealers at stations on their lines. These contentions appear to be based upon conditions

which are largely conjectural. Although this service has been in existence for a long period on many lines, no complaint of unjust discrimination or undue prejudice resulting therefrom has been brought before us.

Defendants urge that the peddler-car service is objectionable from an operating standpoint, but the explanations of the superintendent of transportation of the Norfolk & Western and of the freight traffic manager of the Hocking Valley disclose no substantial operating services not necessary in the handling of ordinary less-than-carload freight.

Defendants insist that the proposed charges are not compensatory for the reason that the service is more expensive than that accorded ordinary less-than-carload traffic. But their evidence in this respect is not convincing. The ordinary merchandise car must be loaded by the carrier at the point of origin, while the peddler car is loaded by the shipper. Defendants observe that the lading of the peddler car becomes lighter as it proceeds, but the situation is not different with respect to the merchandise car, which, a witness for the Norfolk & Western testified, carry in many instances light loads. Moreover, the carrier is protected against the light loading of peddler cars by the revenue minimum. In *Rules Governing Shipments of Freight in Peddler Cars, supra*, we said:

It appears that the service rendered by the respondents in connection with peddler cars is generally not greater, and in some instances less, than the service which they render in connection with less-than-carload traffic handled through their freight houses; that for the peddler-car service the user pays the regular less-than-carload rates, guarantees the carrier a minimum per car earning, saves the carrier the expense of refrigeration, reduces loss and damage claims, and gives to the carrier a volume of traffic which could not be satisfactorily transported in its own equipment.

Similar views were expressed in *Rates and Rules on Shipments of Packing-House Products*, 36 I. C. C., 62, and in *Peddler Car Minimum, supra*.

A loading of from 12,000 to 15,000 pounds is necessary to make up the minimum charge, and it appears that in many instances the revenue minimum would be applied. Defendants contend that the peddler-car service is greater than that rendered for a carload shipment of fresh meats and therefore that the revenue minimum proposed, which is 20,000 pounds at the carload rate on dressed beef to the highest rated destination, is not compensatory. A similar contention was dismissed in *Peddler Car Minimum, supra*. Defendants submitted no statement of costs, nor did they suggest what would be a reasonable compensation. The proposed revenue minimum is the same as applies generally in central freight association territory and is higher than that in other territories.



No. 9009.

## CLAIMS FOR LOSS AND DAMAGE OF GRAIN.

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*Submitted January 17, 1918. Decided February 4, 1918.*

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Claims against carriers for the loss and damage of grain and grain products shipped in bulk, and the regulations and practices observed in connection with the presentation, investigation, and adjustment of such claims, analyzed and discussed. Carriers and shippers given opportunity to confer and agree upon rules and practices to be followed in filing, investigating, and disposing of claims. The proceeding held open for such further action as may be found necessary or proper.

*H. La Master* and *U. G. Powell* for Nebraska State Railway Commission; *P. W. Dougherty* for South Dakota Railroad Commission, Farmers' Graindealers' Association of South Dakota, and Department of Market Commissioners for South Dakota; and *Don M. Livingston* and *F. O. Simonson* for Department of Market Commissioners of South Dakota.

*A. H. Lossow* and *A. E. Hodson* for Minneapolis, St. Paul & Sault Ste. Marie Railway Company; *John F. Finerty* for Great Northern Railway Company; *D. R. Frost*, *J. F. Horrigan*, and *H. J. Frerichs* for Northern Pacific Railway Company; *John Barton Payne*, *F. H. Towner*, and *G. H. Hunt* for Chicago Great Western Railway Company; *S. W. Patton* and *F. H. Miner* for Minneapolis & St. Louis Railroad Company; *F. C. Maegly* and *F. W. Andrews* for Atchison, Topeka & Santa Fe Railway Company and Gulf, Colorado & Santa Fe Railway Company; *W. F. Dickinson*, *W. O. Bunger*, *O. Maxey*, *H. H. Alfrey*, *A. L. Phelps*, *E. S. Rickard*, *W. S. Brandt*, and *F. E. Dowell* for Rock Island lines; *Carl S. Jefferson*, *C. H. Deidrich*, *H. P. Elliott*, and *F. W. Wagner* for Chicago, Milwaukee & St. Paul Railway Company; *Fred G. Wright* and *H. G. Herbel* for Missouri Pacific Railroad Company; *Thomas H. Fittz* for Evansville & Indianapolis Railroad Company; *A. G. Ellick* for Union Pacific Railroad Company; *T. J. Norton* for Atchison, Topeka & Santa Fe Railway Company; *L. D. Davis*, *James J. Graham*, and *James C. Brown* for Baltimore & Ohio Railroad Company; *Hay & Brown* for Wabash Railroad Company; *Robert H. Widdicombe* for Chicago & North Western Railway Company; *C. S. Burg* for Missouri, Kansas & Texas Railway Company; *H. A. Scandrett* for Union Pacific system; *Kenneth F. Burgess*, *Jesse L. Rott*, and *J. D. Shields* for Chicago, Burlington & Quincy Railroad Company; *George R. Allen* for Pennsylvania Railroad Company; *Edward H. Hart* for

Nashville, Chattanooga & St. Louis Railway; *D. M. Goodwyn* for Louisville & Nashville Railroad Company; *James Stillwell* for Pennsylvania lines west; *William Mann* for central freight association lines and New York Central Railroad Company; *Philip T. White* for central freight association; and *R. V. Fletcher* and *B. D. Bristol* for Illinois Central Railroad Company.

*T. A. McGrath* and *W. P. Trickett* for Minneapolis Traffic Association; *Charles J. Austin* for New York Produce Exchange; *Edward H. Berg* for St. Paul Association of Public and Business Affairs; *L. E. Banta* for Indianapolis Board of Trade; *Clay Johnson* and *W. T. Cornelison* for Peoria Board of Trade; *James C. Jeffery* and *J. S. Brown* for Chicago Board of Trade; *G. Stewart Henderson* and *Herbert Sheridan* for Baltimore Chamber of Commerce; *Charles Rippin* and *John Dower* for St. Louis Merchants Exchange; and *Henry T. Clark* and *C. H. Compton* for Omaha Grain Exchange.

*H. V. Mercer* for St. Anthony & Dakota Elevator Company, Monarch Elevator Company, Andrews Grain Company, Great Western Grain Company, Acme Elevator Company, Northwestern Elevator Company, and their allied companies; *Fred Von Borries* for Ballard & Ballard Company; *G. Frank Morris* for Foster Farms; *Charles H. Eyster* for Farmers' Grain Dealers Association of South Dakota; *Clifford Thorne* and *J. D. Reynolds* for National Council of Farmers' Co-operative Associations; *H. G. Simpson* and *H. A. Feltus* for Van Dusen Harrington Company and interests; *J. H. McCune* for Illinois Grain Dealers' Association; *H. B. Dorsey* for Texas Grain Dealers' Association; *Otto Mortensen* for Cargill Elevator Company and sub-companies; *Henry L. Gremann* for Ohio Grain Dealers' Association and Grain Dealers National Association; *George A. Wells* for Western Grain Dealers' Association; *Charles B. Riley* for Indiana grain shippers; *D. L. Boyer* for Missouri Grain Dealers' Association; *E. J. Smiley* for Kansas Grain Dealers' Association; *H. B. Price* for Farmers' Grain Dealers' Association of Illinois; *E. J. White* for Central Grain, Lumber & Supply Company; *E. G. McCollum* for Farmers' Grain Dealers' Association of Indiana; *T. C. Crabbs* for Crabbs-Reynolds-Taylor Company; *James W. Sale* for Studebaker Grain & Seed Company; and *C. F. Prouty* for Oklahoma Grain Dealers' Association.

*A. S. Dodge* for Western Weighing & Inspection Bureau; and *L. W. Watson* and *I. C. Markey* for Southern Weighing and Inspection Bureau.

#### REPORT OF THE COMMISSION.

The following is the report proposed by the examiner:

It appearing from reports on file with the Commission that claims for the loss and damage of grain and grain products constituted a

large and perhaps an undue proportion of all loss and damage claims against certain carriers, and that some of the widely varying practices of shippers and carriers with respect thereto were illegal or of doubtful propriety, the Commission instituted this proceeding on its own motion with a view to determining whether the regulations and practices of common carriers by railroad respecting the investigation and adjustment of claims for loss and damage on grain and grain products moving in bulk result in undue preference, unjust discrimination, or are otherwise in violation of the act.

Preliminarily an examination was made of the claims records of 12 of the more important western grain-carrying roads on local shipments in October, 1915, to Minneapolis, Minn., Omaha, Nebr., Kansas City and St. Louis, Mo., Chicago and Peoria, Ill., and Milwaukee, Wis. The information thus obtained was incorporated in the record at hearings subsequently held, and much additional evidence was submitted by shippers, representatives of the carriers, public officials, and others interested in the handling of grain.

This report is based largely upon the facts of record relating to the claims on October, 1915, shipments. It is said that throughout the northwestern grain-producing area the 1915 crop contained an abnormal moisture content, and, therefore, some of the shippers assert that claims filed on October, 1915, shipments are not fairly representative of the average normal conditions or of conditions prevalent in other parts of the country. October is one of the heaviest grain shipping months for most kinds of grain except corn. Enough time had elapsed to allow all shippers to file claims on shipments moving in October, 1915, and to enable the carriers to complete their investigations of same. The examination embraced a sufficient number of carriers and grain markets, and a large enough producing territory to afford illustrations of all conditions commonly encountered in the purchase, sale, and transportation of grain and grain products, and the claims examined have been carefully analyzed and classified. Obviously in any business so widely diffused as that of producing, marketing, and transporting grain, particular conditions may vary from time to time or prevail to a lesser degree in some localities than in others. But to the extent that the faulty conditions or the improper practices hereinafter discussed exist in any quarter they should be given due consideration and attention. It is shown by the evidence relating to other periods, to other markets, and to claims against other carriers, that the facts disclosed by examination of the claims filed on October, 1915, shipments are fairly illustrative of the situation as a whole.

## THE EXTENT TO WHICH CLAIMS ARE FILED.

During the year ended December 31, 1914, 180 railroads, operating approximately 90 per cent of the steam road mileage in the United States, disbursed \$32,375,617, or about 1.62 per cent of their freight revenues, in settlement of freight loss and damage claims. Approximately 12.7 per cent of the total, or \$4,112,655, represented payments for loss and damage on grain and grain products. Over 56 per cent of the total disbursed by all lines in settlement of claims on grain alone, or \$1,525,756, was paid by the 12 western roads referred to, viz, the Chicago, Burlington & Quincy, the Chicago, Milwaukee & St. Paul, the Great Northern, the Chicago & North Western, the Chicago, Rock Island & Pacific, the Illinois Central, the Minneapolis, St. Paul & Sault Ste. Marie, the Northern Pacific, the Missouri Pacific, the Missouri, Kansas & Texas, the St. Louis & San Francisco, and the Wabash.

The following table illustrates the relation of claims filed to the grain traffic and revenues of these lines for the month of October, 1915, on local shipments to the markets named:

	Minneapolis.	Chicago.	St. Louis.	Omaha.	Kansas City.	Peoria.	Milwaukee.	Total.
Number of cars shipped..	18,679	9,450	2,504	2,059	4,064	1,086	2,982	40,824
Number of cars on which claims were filed.....	1,761	751	481	487	499	170	472	4,621
Percentage of cars on which claims were filed (per cent).....	9.43	7.95	19.21	23.65	12.28	15.65	15.83	11.32
Revenue on cars shipped.	\$1,901,351	\$677,137	\$157,929	\$145,846	\$361,657	\$57,135	\$270,639	\$3,571,694
Weight of grain claimed to have been lost (pounds).....	2,881,841	649,485	188,825	458,933	664,650	89,812	349,742	5,283,288
Value of grain claimed to have been lost.....	\$39,225	\$7,780	\$2,813	\$5,840	\$9,385	\$1,008	\$4,132	\$70,184
Percentage relation claims to revenue (per cent)...	2.06	1.15	1.78	4.00	2.59	1.75	1.53	1.97
Claimed loss per ton of grain shipped, equaled (cents).....	5.75	2.30	3.27	8.08	6.62	2.53	4.11	4.82

The variation in the extent to which claims were filed on shipments to each of these markets, Omaha and Chicago, for example, is attributable in large measure to differences in conditions which affect the reliability of the point of origin weights and to lack of uniformity in the practices observed at the different markets in gathering and recording evidence of leakage or other losses in transit. These differences in conditions and practices will be discussed hereinafter.

The proportion in which claims were filed against the different carriers also varied greatly. Claims were filed on 16.03 per cent of the shipments handled by the Missouri Pacific, for an amount equivalent to 4.86 per cent of its grain revenues, and to 10.18 cents per ton



27 per cent of its total claim payments, although grain in carloads constituted less than 11 per cent of all carload shipments.

In October, 1915, the Chicago, Burlington & Quincy handled 11,073 cars of grain upon which its claim payments averaged 89 cents per car, as against an average payment of 92 cents per car on 13,726 cars shipped in October, 1916. The claims filed against the Chicago, Milwaukee & St. Paul on 14,235 cars in October, 1915, aggregated \$15,289.70, an average of \$1.07 per car shipped, and on 13,509 cars in October, 1916, \$31,449.93, an average of \$2.32 per car. This was equivalent to 1.86 per cent of its gross revenues on the shipments. On 19,694 cars handled by the Great Northern in October, 1915, 3,136 claims were filed for \$63,719.99, equivalent to \$3.23 per car and to 7.53 cents per ton shipped, and representing 2.63 per cent of the gross revenues. On 8,405 cars moved in October, 1916, 1,400 claims were filed for \$38,825.66, equivalent to \$4.62 per car and to 9.65 cents per ton shipped, and representing 3.07 per cent of the gross revenues.

The rapidly increasing value of grain within the past two years has tended to augment the number of claims for the loss of small quantities and the value of the alleged losses. The effect of this natural tendency, however, has been counteracted to some extent by a more general observance of rules requiring a deduction to cover natural shrinkage and unavoidable waste in transit; by the growing practice of declining payment of claims on clear record cars; and by greater effort on the part of carriers and shippers to prevent leakages or other losses in transit.

There is no fixed amount uniformly observed by shippers as a minimum in filing claims. Some shippers have filed claims for losses of as little as 10 pounds per car, but the great majority of them seldom file claims for less than 100 pounds on shipments moving under unsupervised weights, and many of them do not file claims unless the apparent loss is 300 pounds or more.

#### THE CLAIMANTS.

A large proportion of the claims were presented by a relatively small number of shippers. The 40,824 cars included in the preceding statement were shipped by 8,235 shippers, of which 1,226, or less than 15 per cent, filed claims. These claimants shipped 15,495 cars, or about 38 per cent of the total number, and filed claims on 4,621 cars, or approximately 30 per cent of their shipments. No claims were filed by 85 per cent of the shippers, whose shipments embraced 62 per cent of all cars shipped. The amount claimed was equivalent to more than 5 per cent of the transportation charges on all cars shipped by the claimants, and to more than 18 per cent of the transportation charges on the shipments covered by their claims.

The proportionate number of shippers filing claims varied considerably at the different markets. On shipments to Minneapolis claims were filed by about 10 per cent of the shippers whose shipments comprised 42 per cent of all cars consigned to that market, and who filed claims on about 22 per cent of their shipments. On shipments to Omaha, 32 per cent of the shippers, whose shipments comprised 50 per cent of the total number, filed claims on 47 per cent of their shipments.

A further analysis of the claims shows that not only were they all filed by a comparatively few shippers, but that a large majority of them were presented by a small proportion of the total number of claimants. On 18,564 cars received at Minneapolis in October, 1915, 35 shippers, or 1.2 per cent of the total number of shippers, and 12.6 per cent of the total number of claimants, who shipped 31.5 per cent of the cars, filed claims on 23.3 per cent of their shipments. Their claims represented 77.3 per cent of the total number of claims filed, and of the total weight of grain claimed to have been lost. In comparison with the claims of these 35 claimants, 2,789 shippers, constituting 98.8 per cent of all shippers and 87.4 per cent of all claimants, whose shipments aggregated 68.5 per cent of all cars shipped, filed claims on but 3.1 per cent of their shipments. Their claims represented but 22.7 per cent of the total number of claims filed and of the total weight of the grain claimed to have been lost. A substantially similar condition obtained with respect to shipments to Chicago, except that the quantity of grain claimed to have been lost from cars shipped by the principal claimants comprised a lesser proportion of the total alleged loss, largely because their claims were based to a much greater extent on supervised weights than were those on shipments to Minneapolis.

The shippers filing a majority of the claims were the line elevator companies or those having a general office at a terminal market and operating a line of country elevators where the grain is purchased and stored preparatory to shipment. Some of the line elevator companies were more zealous than others in filing claims. On each road there were one or two shippers who filed a large proportion of all claims. On the Great Northern, for example, the claims of the St. Anthony & Dakota Elevator Company represented 27 per cent of the entire loss claimed, although it shipped but 11 per cent of the cars. This company filed claims on 40 per cent of its shipments. On shipments to Minneapolis, via the Minneapolis, St. Paul & Sault Ste. Marie, the claims of the Osborne-McMillan Company embraced 25 per cent of the entire loss claimed, although it shipped but 6 per cent of the total number of cars. On the Chicago, Milwaukee & St. Paul, the Empire Elevator Company shipped 5.1 per cent of the

cars to Minneapolis and claimed 32 per cent of the total loss. It shipped 0.8 of 1 per cent of the cars to Chicago and claimed 15 per cent of the loss.

It is said that the disproportionate number of claims presented by this class of shippers is attributable largely to the fact that the line elevator companies, as a general rule, are also engaged in the grain brokerage or commission business and file many claims on behalf of their customers. And, furthermore, that the volume of their business justifies the employment of men specially qualified to handle their traffic matters and claims. In the analysis of claims on October, 1915, shipments, however, claims filed for their customers were not classed as claims of the line elevator companies.

#### CONDITIONS AFFECTING THE VALIDITY OF CLAIMS—WEIGHTS.

The adjustment strictly on their merits of claims for loss of grain is a difficult and perplexing undertaking. The quantity of grain escaping from cars in the course of transportation can be determined rarely, if ever, with absolute certainty, and it is said that no "scientific" method of dealing with grain claims has been devised. Manifestly the identical grain lost can not be recovered and weighed, nor can the extent of the loss be fairly estimated without considering a multitude of facts having a more or less direct bearing upon the question of loss. Merely because there is no record of leakage or other loss in transit, or of defects in the cars, or of other conditions which might have permitted a loss, it does not necessarily follow that none occurred, for the movement is not under such constant and close surveillance that losses or defects are invariably noted. Equally inconclusive are mere discrepancies between the origin and the destination weights, for either one or both of them may be, and frequently are, erroneous.

In determining the fact of loss the question of whether the claimed weights are accurate is of first importance, and the record abundantly shows that to obtain reliable weights it is necessary to surround all operations incident to the handling and weighing of grain with extraordinary safeguards and precautions. Practically all grain consigned to primary markets is sold on basis of the destination weights. Those weights are also used in settlement of the freight charges, and usually are ascertained by official weighmasters in the employ or under the supervision of disinterested organizations, such as state weighing departments, grain exchanges, boards of trade, or chambers of commerce. The weights thus determined are referred to in this report as supervised weights. Weights ascertained solely under the jurisdiction of the shipper are denominated unsupervised weights. Official weight certificates issued by recognized weighing

authorities at the terminal markets are usually accepted by the carriers as indisputable evidence of the amount of grain received or delivered at those points.

Because the official weights of terminal grain markets are recognized as prima facie correct and are quite generally used as a standard by which to judge the reliability of other weights, the highest degree of accuracy attainable is imperative. It is conceded, however, that official weights are not always absolutely correct and many instances are cited where scales used in obtaining such weights were shown by test to register erroneous results. Tests were made in 1916 by the Western Weighing & Inspection Bureau of hopper scales used in weighing grain at the Kansas City, Omaha, St. Louis, and Milwaukee markets, with the results indicated in the following statement:

	Number of scales tested.			
	Weighing light.	Weighing heavy.	Weighing correctly.	Total.
Kansas City.....	57	20	18	95
Omaha.....	16	2	15	33
Milwaukee.....	20	3	20	43
St. Louis.....	28	19	8	55

Most of the scales tested either weighed correctly or were inaccurate to the extent of less than 1 pound per 1,000 pounds of load, but the extent of the inaccuracy in many cases ranged from 1 pound to more than 5 pounds per 1,000 pounds of load. Track scales were also tested at these points. Some few were found to be weighing correctly. The extent of error found in others ranged from 50 pounds or less to more than 1,500 pounds on loads weighing from 69,600 pounds to 100,500 pounds. The following statement showing the results of tests made by the market department of the Chicago Board of Trade is also of interest:

Market scales tested.		How found.			
		O. K.		Weighing incorrectly or needing adjustment.	
Year.	Number.	Number.	Per cent.	Number.	Per cent.
1914....	716	611	85.3	105	14.7
1915....	483	340	70.4	143	29.6
1916....	622	482	77.5	140	22.5

The record shows the results of other tests, but those cited are deemed sufficient to illustrate this phase of the situation. That official  
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weights are not uniformly correct is conclusively demonstrated by the fact that the official weight registered at destination frequently exceeds that at the point of origin. Manifestly in all such cases either one or both of the weights are erroneous, and this justifies a presumption that apparent shortages on shipments covered by official weight certificates are to an equal extent attributable to inaccurate weighing. There is a lack of uniformity in the construction, installation, maintenance, testing, and operation of scales and other elevator equipment, and in the supervision of the weighing and the handling of grain at different terminal markets, and even at different elevators in the same terminal, which necessarily produces varying degrees of inaccuracy in supervised weights. Scales and grain handling equipment used at some markets would not be tolerated at others, because they are considered unreliable. Conditions exist at some of the older elevators that would not be permitted in the construction of a new elevator at the same terminal, although the same weighing department supervises the weighing and gives official weight certificates at both. Hopper scales in the cupolas of some elevators rest on the cribbing and in others on independent foundations. This is probably true at every terminal market. Scale and weight experts in general agree that scales dependent upon elevator cribbing for a foundation must sooner or later become unlevel and a source of inaccurate weights.

The rules of many reputable weighing departments having supervision over official weights require that grain shall pass from the scale to the car through a direct spout or from the car to the scale by direct elevation, but at many points grain is handled through bins, elevated, re-elevated, rehandled, or conveyed by belt or screw conveyors between the car and scale, thereby multiplying the possible causes of inaccuracy. Some weighing departments will approve scales tested with only 1 ton of weights. Others require that from 2 to 4 tons of weights shall be used. Some weighing departments station a man on the first floor of each elevator to supervise the unloading, and another on the scale floor to observe the weighing. Others maintain but one inspector at each elevator. Some weighing departments permit the deputizing of an elevator or industry employee as an official weighmaster. Others do not approve such a custom or practice because it is felt that the supervision is not impartial, and that the weighing may be inaccurate. As tending to show that the latter view is justified to some extent, the Commission's investigation disclosed that at Detroit, Mich., where official weights are determined by industry employees, some of them unsworn, it was customary at two of the principal elevators to report the weight

of the grain received as from 30 to 80 pounds per car less than the actual weight, and to add a similar amount to the weight of outbound shipments. But generally speaking, official weights are obtained under conditions which inspire confidence in their reliability, and as a practical matter they are perhaps about as accurate as can be secured.

The principal difficulty arises in connection with unsupervised weights at points of origin on shipments from the country to terminal markets. Claims based upon such weights are regarded by the carriers as of doubtful merit. Conceding that except in isolated instances there is no disposition on the part of shippers knowingly to present claims of a fraudulent nature, the carriers nevertheless contend that in general the conditions and practices obtaining at country shipping points are such as necessarily to result in unreliable shipping weights. This contention is supported by a mass of evidence dealing with the character and condition of the scales and other elevator equipment, and with the practices followed in weighing and handling grain at such points.

In most instances country elevators are equipped with small capacity automatic or hopper scales, and the carload weight is ascertained by weighing numerous separate draughts. Thus, even though the scales are reasonably accurate and the weighing is carefully performed, there is greater possibility of error than in the case of official weights which are obtained in some instances on track scales but more often in one or two draughts on large capacity hopper scales. This greater tendency to error results from the fact that on all scales a certain weight is required to "break the beam," the amount depending upon the sensibility of the beam and being, it is said, about 10 pounds on hopper scales and 40 pounds on track scales. Assuming, therefore, that 60,000 pounds of grain is carefully weighed on two reasonably accurate hopper scales of 30,000 pounds and 6,000 pounds capacity, respectively, the total possible error attributable to breaking the beam would be 20 pounds in one instance, and 100 pounds in the other. The probability of error and the possible extent thereof are immeasurably increased if the small capacity hopper scale is inaccurate or the weighing or recording is improperly performed. The capacity of hopper scales commonly used at country elevators ranges perhaps from 3,000 pounds to 7,000 pounds, and that of automatic scales from 160 pounds to 500 pounds.

That many scales in use at country points are defective or that they are negligently maintained or operated is asserted by the carriers and conceded by most shippers and unprejudiced weighing officials. But there is much dispute as to the extent and probable effect



year 99 were weighing correctly, 27 were weighing light, and 11 were weighing heavy; of 105 automatic scales tested 89 were weighing correctly and 16 were found out of order.

Whether the conditions indicated by these and other tests of record are fairly representative or typical of the general situation is open to some question. The tests covered only an insignificant proportion of all grain weighing scales, and in many instances were made because of the apparent inaccuracy of weights registered by the scales tested. Representatives of the shippers earnestly insist that in most cases the weighing facilities and the precautions taken insure reasonably correct weighing, and that as a general rule the claimed shipping weights are reliable. Some degree of supervision over weighing facilities at country points is exercised by state weighing departments or by organizations of grain dealers, or by both, but in general it is wholly inadequate and adds little to the trustworthiness of unsupervised weights. Without stopping to discuss the many causes of inaccuracy, or to cite any of the numerous specific examples of faulty conditions, a fair conclusion upon the facts of record is that inaccurate weighing prevails at country shipping points to an extent which impairs the credibility of unsupervised weights as a whole and which justifies careful inquiry into local conditions before accepting the claimed weights as correct. These inaccuracies, however, result not so much from defects in the scales themselves, whether of the hopper or of the automatic type, as from deficient installation, testing, and maintenance, and the incorrect weighing or recording of weights by careless, overworked, or incompetent weighers.

Representatives of the shippers assert that imperfect scale conditions tend generally to result in the loading of a greater weight of grain into cars than is registered by the scale, but there is much evidence to the contrary. It is conceded that many scale defects do tend to produce underweights; but it appears from the testimony of numerous scale experts and from other evidence of record that where scales are defective or the weighing is improperly performed the weight registered may be either greater or less than the actual weight.

In addition to errors made by weighers and the inevitable variations between the origin and destination weights resulting from the well-known and generally recognized fact that scales are only relatively accurate, there are many other conditions not incident to transportation that may and do produce differences between the loading and the unloading weights. Among these are loss or diversion of grain between the scale and the car at loading and unloading points; unavoidable waste during the process of loading and unloading and natural shrinkage due to the evaporation of moisture; loss of grain in transit as the result of the careless or faulty appli-

cation of grain doors or cooperage by shippers; the removal of grain for inspection purposes, by state and board of trade inspectors; and waste resulting from the consignee's failure to remove all grain from the car. These conditions, of which many examples are cited in the record, will be discussed briefly in the order named.

#### LOSS OR DIVERSION OF GRAIN BETWEEN SCALES AND CARS AT LOADING AND UNLOADING POINTS.

By the improved methods of weighing, loading, and unloading at most modern terminal elevators, the opportunity for loss of grain in transit between scale and car is reduced to a minimum. But at some country elevators, as well as at some of the old style terminal elevators, there exists the possibility of material loss.

The construction of some elevators permits the grain to run directly from scale to car. In elevators of a different type the grain runs from the scale back into the pit and is re-elevated, thus traveling a considerable distance after weighing before finally reaching the car. This largely increases the possibility of loss, for not infrequently the chutes or spouts through which the grain is conveyed after weighing are defective or improperly adjusted, thus permitting varying quantities of grain to escape. In many elevators the disposition of the grain after weighing is controlled by a turnhead or distributing spout located at the top of the elevator, by means of which the grain is distributed to the car or to storage or loading bins. Usually the turnhead is operated from the floor below and is not always examined to see that it is properly placed. If the turnhead is not properly adjusted, some of the grain intended for loading into cars may be diverted to bins without detection.

In some elevators fans are installed which remove more or less chaff and dirt before the grain unloaded from cars is weighed. Power fan loaders which are sometimes used to force the grain back into the ends of the car accomplish a similar result and the action of the fan also tends to dry the grain.

It further appears that due to the faulty condition or improper adjustment of the loading spout grain is occasionally spilled on the ground while a car is being loaded and it is not always recovered and loaded into the car. Grain is often loaded into cars from wagons and in the process more or less grain is spilled, and sometimes grain loaded into one car is reported as having been loaded into another. Grain loaded from wagons is hauled varying distances after weighing, and this fact alone casts doubt upon such weights because of the possibility of a loss or diversion of grain between the scale and the car. Obviously carriers are not responsible for losses of grain resulting from any of the causes mentioned.

## NATURAL SHRINKAGE AND UNAVOIDABLE WASTE.

The practices of different carriers with respect to making a deduction for natural shrinkage and waste are not uniform. For some time past the tariffs of most carriers serving the territory west of Chicago have contained a provision to the effect that when the carrier's liability is established there will be deducted from the weight of the grain lost one-eighth of 1 per cent of the shipping weight on wheat, rye, oats, and other small grain, and one-fourth of 1 per cent on corn to cover shrinkage due to evaporation or other natural causes. The lines east of Chicago have no tariff provisions covering the matter except on ex lake traffic, but since March 15, 1916, they have observed the following rule:

Claims for shortage of grain in bulk will only be paid when after investigation it is demonstrated that such shortages are the result of wreck or defective equipment or transfer of the grain by the railway companies en route, or other causes for which the carrier is responsible. If claims for shortages are properly payable as a result of the foregoing contingencies, they will be paid and the claimants will not be called upon to deduct the percentages from their claims as representing shrinkage. This means that when the record is perfect claimants will not be paid.

The tariffs of the Baltimore & Ohio Railroad, and perhaps those of other lines, publish the following rule respecting the adjustment of claims on ex lake grain:

This company will only be responsible for shortage of wheat, corn, rye, barley, or oats received for transportation under this tariff and delivered to elevators located at railroad terminals at the seaboard when such shortage is in excess of one-eighth of 1 per cent of West Fairport elevator weights. When in excess of one-eighth of 1 per cent this company will only assume shortage over and above one-eighth of 1 per cent of West Fairport elevator weights, unless shortage is occasioned by accident or defective cars. The above only applies on grain in merchantable condition. When not in merchantable condition this company will not be responsible for any shortage unless occasioned by accident or defective cars.

Many shippers insist that there is no natural shrinkage of grain in transit and that the unavoidable waste due principally to the elimination of dust and chaff is insignificant, but this record is replete with evidence to the contrary and supports our findings in previous cases that the tariff rule observed by the western roads is not unreasonable. *Crouch Grain Co. v. A., T. & S. F. Ry. Co.*, 36 I. C. C., 265; 41 I. C. C., 717.

In behalf of the grain dealers of New York and certain other terminal markets it is contended that where the movement is between terminal markets on supervised weights the carrier should be held liable for any failure to deliver the bill of lading shipping weight, less a deduction of one-eighth of 1 per cent on wheat, rye, oats, and

other small grains and one-fourth of 1 per cent on corn, except on shipments in defective record cars—that is, cars from which leaks or other losses are detected, or cars which have been unloaded or transferred en route. It is admitted that the elements of natural shrinkage and unavoidable waste are involved when shipments move in defective record cars to the same extent as when they move in clear record cars, but it is urged that since the exact amount of the loss can not be determined, the rule proposed would be fair to both parties and establish a definite and uniform basis for adjustment.

Shippers of grain from Chicago to the Atlantic seaboard complain that the rules applying on ex lake grain from Buffalo unjustly discriminate against them since they are in competition with the Buffalo dealers whose claims on clear record cars are paid, whereas the lines from Chicago to the east absolutely decline to pay any claims on clear record cars. The carriers admit that there are no different circumstances surrounding the transportation of ex lake grain between Buffalo and the Atlantic seaboard and grain between other terminal markets under supervised weights, except that the average haul is somewhat shorter. The only justification offered is that under the rule settlements are based on the net shortage on contract lots of grain comprising numerous carloads, and thus the overages offset to some extent the shortages on individual carload shipments.

#### LEAKAGE THROUGH OR OVER GRAIN DOORS.

As a considerable number of the claims presented were for losses resulting from leakage through or over grain doors, the question of responsibility for such losses is one of considerable importance. Of 24,191 defective record cars received in Chicago in 1916, leaks due to defective, improperly installed, or insufficiently braced grain doors were noted on 3,368, or almost 14 per cent of the total number, and leaks over grain doors due either to the shipper's failure to board the doorways high enough, or to the removal of the top boards by grain inspectors and samplers were noted on 4,398, or approximately 18 per cent of the total. It was testified on behalf of the Great Northern that of 6,079 cars inspected at Willmar, Minn., in October, 1915, 397 were leaking and that about 95 per cent of the leaks were through or over grain doors.

It is customary for the carriers to furnish sectional grain doors, or lumber for boarding up the doorways of cars, and many lines now furnish, or have done so in the past, paper or burlap for use in cooping or lining cars. Except at terminal markets shippers are required to install the grain doors and to repair minor defects which might permit a loss of grain. In *Farmers' Cooperative Asso. v. C., B. & Q. R. R. Co.*, 34 I. C. C., 60, the Commission referred to this custom.

tom and said that such a requirement is not unreasonable. As a general rule, the carriers not only furnish the grain doors but distribute to shippers printed and illustrated circulars of instructions for applying them.

Some carriers decline to pay claims where the loss is attributable to the faulty installation of grain doors by shippers; others assume liability because of the impossibility, or difficulty, of proving the shipper's negligence. If the installation of grain doors and cooperage is a shipper's duty, there necessarily exists an obligation to use due care in performing it. Where the carriers furnish adequate grain doors, lumber or other cooperage material, which they do not always do, and specifications for the use thereof, they should not be expected to pay for losses occasioned by the shipper's negligence.

#### LOSSES RESULTING FROM THE TAKING OF SAMPLES FOR INSPECTION PURPOSES.

Grain shipped to terminal markets is sampled at destination and in some instances at intermediate points. Two or more samples are removed from each car. The average weight of all samples taken from cars destined to Minneapolis and Omaha is estimated at 15 pounds per car. It is stated that the weight of samples taken at certain other grain markets averages somewhat less. In no claim examined covering October, 1915, shipments did a claimant make any deduction to cover the quantity of grain removed by authorized samplers. As already stated, instances were observed in which claims were presented for losses of as little as 10 pounds. The wastage of grain resulting from the removal of the top boards of grain doors by inspectors and samplers for the purpose of entering cars has been mentioned.

#### FAILURE OF CONSIGNEES TO UNLOAD ALL GRAIN.

After cars have been unloaded and switched from elevators and mills varying quantities of grain usually may be found scattered about the car floors or adhering to the belt rails. This source of loss is recognized by the laws of the state of Minnesota which prohibit the sweeping of grain cars by "any person not the owner or his agent, or having charge of the car for the purpose of loading same." It is also recognized by the weighing rules of the Minnesota State Railroad & Warehouse Commission and of the weighing departments of boards of trade and similar organizations, which include specific instructions respecting the sweeping of cars.

A number of carriers attempt to salvage the grain left in cars. The records of the Chicago, Milwaukee & St. Paul show that from the

sale of grain swept from cars at Milwaukee during the period from September 12, 1914, to November 8, 1916, the net proceeds, after paying the sweepers \$2 per day, were \$6,437. It is in evidence that the Minneapolis, St. Paul & Sault Ste. Marie recovered an average of 62 pounds per car from 2,870 cars reswept at Minneapolis during the 12 months ended March 31, 1917. Only cars containing enough grain to make the resweeping profitable were reswept. The records of the Grain Door Reclamation & Cooperage Bureau, an organization which, in addition to its other duties, resweeps grain cars for the carriers at Chicago and Peoria, disclose that the grain recovered from 20,723 cars reswept at Chicago during the year 1916 averaged 16 pounds per car, and that from 9,509 cars reswept at Peoria the salvaged grain averaged 10.8 pounds per car. All cars were reswept at Peoria, while at Chicago only 11.44 per cent of them were reswept, principally because the remaining cars did not contain sufficient grain to warrant the expense.

Representatives of the grain markets and terminal elevator operators testified that all cars are carefully swept after unloading and that every reasonable effort is made to remove all grain. In explanation and defense of the fact that grain is left in the cars, they assert that it frequently lodges in or behind defective linings and can not be recovered without mutilating the cars. All but a comparatively small proportion of grain cars are constructed either with vents to permit the escape of grain from behind linings, or are unlined, cars of the latter type being known as single sheathing cars. While it would appear, therefore, that only in exceptional cases should any material amount of grain be left in cars from this cause, numerous instances are cited where from lined cars, not provided with vents, or having inadequate vents, considerable quantities of grain were recovered by removing portions of the lining. It is asserted that in most instances the grain recovered by resweeping is that dislodged from car linings by the switching movement. The contention that the construction and condition of cars explain in part such losses is not without merit. But that consignees are responsible to a considerable extent is shown by the fact that where the unloading is subjected to close supervision and where carriers have followed the practice of resweeping, a marked decrease in the amount of grain left in cars has resulted.

#### LOSSES DUE TO DEFECTIVE EQUIPMENT OR TO CARRIERS' NEGLIGENCE.

From what has been stated it is apparent that there are many causes of differences between loading and unloading weights which should be considered before the carrier can be charged with loss. It is doubtless true, as contended by shippers, that in some instances these and

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other sources of probable error have been seized upon as a plausible excuse for rejecting, without proper investigation, claims which cover actual losses due to defective cars, grain doors, or other conditions for which the carriers are responsible. Testimony on behalf of the carriers tends to show that because of the increased value of grain, and the great number of claims filed, unusual effort has been made in recent years to keep cars in repair, to prevent loading with grain cars which are unfit for that purpose, to surround the transportation with all necessary precautions against loss, and to detect and record such losses as do occur. Shippers are instructed not to use cars which are unfit, but frequently, in times of car shortage, it is necessary for them to do so or to refrain from shipping. The shippers assert that even under normal conditions a large proportion of the cars tendered require extensive cooeping to place them in apparent fit condition for transporting grain.

The extent to which carriers acknowledge liability for losses is related closely to the reported physical condition of cars at destination, and as this matter is materially affected by the manner in which the information is secured, the method employed is of great importance. What is known as the "hammer test" is accepted at some markets as supplying reliable information, while at others it is not so considered.

The ordinary hammer test is made by striking the sides, the grain doors, and the ends of cars with a metal hammer, or a wooden or rubber mallet. If this test results in dislodging any grain, even though a very small quantity, or of a different kind from that embraced in the shipment, the car is recorded as having arrived in a leaky condition. There is much contention among the carriers, the shippers, and the representatives of terminal markets, as to whether the hammer test is reliable. The carriers urge that it is not, and that view is supported by representatives of some terminal markets where the test is not recognized. A witness for the central freight association lines submitted an exhibit showing in detail the results of hammer tests conducted at 12 different points in central freight association territory. Of 220 cars loaded with grain, 115 showed no symptoms of leakage with or without the hammer test; 47 cars showed leakage without the test; 58 cars leaked only under the hammer test, and of these, 35 leaked the same kind of grain and 23 a different kind of grain from that last loaded in them. Of 356 cars apparently fit for grain loading but which either were empty or were loaded with commodities other than grain, 33 leaked grain without the hammer test and 129 leaked grain when that test was applied. The results shown by these tests fairly typify the evidence offered by critics of the hammer test.

It is conceded by all that cars may leak while in motion and yet display no evidence of leakage while at rest. The theory of the ham-

mer test is that the vibrations caused by striking the car simulate to some extent the jars and strains to which cars in motion are subjected, and therefore it is urged that the hammer test affords reliable evidence of leakage in transit.

The number of cars reported leaking is much greater at markets where the hammer test is used than at those where it is not practiced. The records of the chief weighmaster of the Chicago Board of Trade show that of 181,190 cars received at Chicago in 1916, 24,191, or 13.35 per cent of the total, were leaking. Those of the Minnesota state weighmaster show that of 516,832 cars weighed under his supervision in the years 1914 to 1916, inclusive, 41,687, or 8.07 per cent, were leaking and 50,018, or 9.68 per cent, lacked seal protection, or had patches or other defects which rendered possible the leakage or removal of grain. The hammer test is not used at these markets. At Omaha, where the hammer test is used, out of 4,100 cars unloaded in August, 1916, 2,519, or 61.4 per cent of the total number, were recorded as leaking. The percentage of leaky cars at different elevators ranged from 44.6 per cent to 79.1 per cent. In explanation of this wide variation it was stated that at some elevators the hammer test is applied by two or three different inspectors before a final conclusion is reached as to the condition of the car.

That the extent to which claims are filed is affected largely by this practice is shown by a comparison of claims on shipments to Omaha where the hammer test is applied with those to Minneapolis and Chicago where it is not recognized. At Omaha the percentage relation of claims filed to shipments received in October, 1915, was 23.65 per cent; at Minneapolis, 9.43 per cent; and at Chicago, 7.95 per cent.

ANALYSIS OF CLAIMS FILED IN OCTOBER, 1915.

Passing from this general review of the more important conditions affecting the question of loss and the carriers' liability therefor to a consideration of the claims themselves, a fact which first challenges attention is that the claimed losses vary according to the degree of care used in ascertaining the loading weights and the extent to which those weights are supervised. This is clearly illustrated by the following classification of 4,621 claims on shipments embraced in our preliminary examination of the carriers' claims records:

	Per cent of claims filed.	Per cent of loss claimed.	Average claimed loss per car (pounds).
Weighing at origin and destination supervised.....	27.01	6.76	286
Weighing at origin unsupervised.....	61.82	54.67	1,008
Not weighed at origin, shipping weight determined by estimate.....	11.16	38.58	3,941

Obviously the different methods employed in ascertaining the shipping weights can have no relation to actual losses. Whether grain is weighed into the cars or is loaded without weighing, or whether the weighing is supervised or is unsupervised, the transportation service is not affected, nor is it shown that the carriers discriminate by furnishing only grain-tight cars for loading under public supervision and an inferior class of equipment for loading without weighing. But when consideration is given to the varying conditions affecting the accuracy of the different kinds of weights, it is not surprising to find that the average loss per car claimed was over three times as much where the claims were based on unsupervised scale weights as where they were based on supervised weights, and nearly 14 times greater where they were based on estimated weights.

An explanation offered by the shippers, which is supported to some extent by our examination of the claims filed on October, 1915, shipments, is that claims are not filed for such small apparent losses on shipments moving under unsupervised weights as on shipments moving under supervised weights, and also that a still higher minimum is observed in filing claims based on estimated weights. An analysis of 4,035 claims shows that none was filed on estimated weights for a smaller loss than 100 pounds and that only about 9 per cent of them were for losses of less than 1,000 pounds. Claims were filed on shipments weighed at the point of origin for as little as 10 pounds, and about 27 per cent of all claims based on scale weights were for losses of less than 200 pounds.

#### CLAIMS BASED ON ESTIMATED WEIGHTS.

Most of the claims based on estimated weights were presented by shippers to the Minneapolis and Kansas City markets. Approximately 24.57 per cent of all claims on Minneapolis shipments and 12.5 per cent of all claims on Kansas City shipments were founded on estimated weights. Less than 2 per cent of those filed on shipments to Chicago were so based. Estimated weights are determined by ascertaining from the length and width of the car, and the depth to which the grain is loaded, the number of cubic or measured bushels, and multiplying the result by the test weight of 1 bushel. It is evident that extreme care should be used in ascertaining these factors if even approximately accurate results are to be obtained, but the record discloses that great laxity prevails. The dimensions of each car can readily be ascertained from the Railway Equipment Register, wherein they are shown to the fraction of an inch, but to determine the exact depth of the grain is more difficult. The top surface of the load should be made absolutely level, an extremely difficult matter under the most favorable circumstances and an impossible one

in others, as when the car is loaded nearly to the roof. The depth of the load is commonly determined by loading the grain as nearly as possible to a mark placed around the sides and ends of the car at a previously ascertained height, by measuring on the outside of the grain door from the floor to the height the grain appears to be in the car, by looking into the car and judging the depth of the grain by comparison with the nearest grain line, by probing the grain with a rod or stick at one or more points in the car, or by merely guessing at the depth without taking any measurements.

In very few claims presented was the depth of the grain given in fractions of an inch, notwithstanding the fact that a difference of but one-half inch in the depth of wheat loaded in a car 40 feet long by  $8\frac{1}{2}$  feet wide would cause a difference of more than 10 bushels or 600 pounds in the result. Neither was any allowance made for the space occupied by grain doors, although in an average car it is perhaps equivalent to approximately the space occupied by from 3 to 6 bushels of grain.

Given the number of measured bushels, it is necessary to know the average weight of one measured bushel before it is possible to determine the weight of the load. This weight varies widely according to the method employed in securing it. The so-called commercial test used by grain inspectors in connection with the grading of grain is to clean and pour it from a height of about 2 inches into a small brass testing kettle, which is filled until it runs over. The grain is then leveled even with the rim of the kettle and weighed on a scale which registers the weight of the grain per bushel. The elevator agent usually makes also what is known as the "spout test," by placing the kettle on the floor of the car and letting the grain run into it direct from the loading spout. The spout test produces a heavier weight than is obtainable by the commercial test, and is ordinarily used in computing the loading weights. From the record it appears that the test weight per bushel of wheat can be made to vary as much as 6 or 7 pounds, according to the manner in which the grain is discharged into the testing kettle.

It is not even claimed that there is any practical known method whereby the weight of a measured bushel of grain as it lies in a loaded car can be determined with exactness, yet many shippers file claims if the destination weight is materially less than the estimated weight with the same promptness that they do if the grain is weighed into the car, and insist just as strongly upon payment. It appears that quite frequently during the busy season grain is run into cars without weighing, even though the elevator is equipped with scales. The principal reason for this practice is said to be that cars can be loaded much more rapidly. As the purpose is to save time, it seems im-

probable that careful attention is given in such cases to securing the exact average depth or an accurate test weight. That this conclusion is justified is shown by a large number of instances cited where the measurements reported by the elevator agent were found to be far from exact. Practically the only defense of estimated weight claims was offered by certain of the Minneapolis shippers, who follow the practice of filing them to a much greater extent than do shippers to other markets. Such claims were characterized as utterly unreliable by the carriers, by many shippers to other markets, and by representatives of weighing organizations having supervision over official weights at terminal markets, those at Minneapolis among others.

#### CLAIM INVESTIGATIONS AND SETTLEMENTS.

The regulations and practices of carriers respecting the investigation and settlement of claims are of a widely varied character. While the carriers' freight claim agents have immediate supervision over claims, the general policies governing settlements are determined frequently and perhaps usually by some higher official of the particular department to which the office of the freight claim agent is attached. In most cases the freight claim agent is subordinate to the accounting or to the operating department, but on some lines, notably the Minneapolis, St. Paul & Sault Ste. Marie and the Northern Pacific, his office is under the jurisdiction of the traffic department.

The testimony in behalf of the carriers is uniformly to the effect that all settlements are made strictly with a view to the carrier's apparent legal liability, and are not affected by traffic considerations or improperly influenced by the traffic department. In many cases, however, where claims are rejected by the freight claim agent or the settlement proposed by him is not acceptable to the claimant, they are reconsidered at the request of traffic officials and quite frequently are settled on a more liberal basis than that previously offered. It is said that all such settlements are justified by the additional evidence presented or by previous failure to accord proper consideration to that which had already been submitted. In some instances carriers have been threatened with the loss of traffic and in other instances traffic has been diverted to competing lines where claimants who presented doubtful claims were dissatisfied with the settlements offered.

While there is little to indicate that in consideration of a possible loss of traffic carriers have discriminated in favor of particular claimants by paying claims which were without color of legal justification, their policies are influenced to a considerable extent by the practices of competing lines. For example, if it is the policy of a particular carrier to reject claims on clear record cars, that rule may be

deviated from if the claimant is in a position to divert traffic to a competing line which pays such claims. Some settlements have been made which the freight claim agents regarded as unjust, because they were advised by counsel that if suit were brought the carrier would be held liable. It is inferable from the record that there exists quite generally among freight claim agents a feeling that the courts are inclined to look with greater favor upon a shipper's claim than is warranted by the law or facts, and that where suit is brought the burden of proof is placed upon them rather than upon the shipper. Some shippers contend, however, that the carriers or certain of them are so unwilling to give due consideration to their claims that the aid of the courts must be invoked or just claims abandoned.

The investigations made are in many instances of a more or less perfunctory nature. It is customary for claimants to submit the original bill of lading, paid expense bill, a certificate or affidavit of the loading and unloading weight, an account of sales, a statement of their claim, and any information they may have regarding leakage or other losses in transit. If claims are supported by official weight certificates issued by recognized weighing authorities, the carrier usually considers that no investigation is required, and more especially is that true if a certificate is submitted from a recognized inspector indicating that the car was defective or leaking grain at destination. Such investigations as the carriers do make are generally limited to ascertaining whether the car moved under seal protection and without record of loss. As illustrating the careless manner in which claims based on official weights are sometimes investigated, our preliminary examination of claims on October, 1915, shipments disclosed that the Chicago, Milwaukee & St. Paul had paid several such claims without investigation, which covered shipments transported solely by other lines.

Some carriers employ special grain claim clerks and inspectors who travel over the lines investigating local conditions, especially at shipping stations where there is reason to question the accuracy of the claimed weights. Still other lines, notably those in central freight association territory, pursue the policy of having grain claims investigated by a railway weighing and inspection bureau. The opinion was expressed that these agencies are better prepared to make a thorough and impartial investigation, and that their employment has materially reduced claim payments.

With certain exceptions, no inflexible rules are followed by any of the carriers, the circumstances and conditions surrounding each particular claim influencing the extent of the investigation and the basis of settlement, but the following principles are more or less closely observed by many lines: Claims on shipments weighed at the point

of origin and at destination under recognized supervision are paid usually in full. Claims based on unsupervised weights at the point of origin are paid when there is evidence of probable loss resulting from defective cars or seals. Claims on shipments measured at the point of origin, when there is evidence of defects permitting the loss of grain, are settled for as little as the claimant will accept, but seldom for more than 50 per cent of the amount claimed. Claims on shipments other than those weighed at the point of origin under recognized supervision are generally declined unless the claimant presents evidence of defects which would permit the loss of grain.

The principal complaint made by shippers is with respect to the difficulty in securing adjustment of claims on clear record cars, and the lack of uniformity in dealing with grain claims is well illustrated by the diverse practices observed by carriers in adjusting this class of claims. Some western lines and the eastern lines generally pay no claims on clear record cars, whether based on supervised or on unsupervised weights. Others, as stated, pay such claims if the weights were supervised, but not otherwise. Some few carriers adjust clear record claims where the loading weights were unsupervised. Still others pay clear record claims based on supervised weights except claims on cross-town movements. Generally speaking, however, most lines have either discontinued or greatly restricted the payment of clear record claims.

That policy was adopted after numerous tests had been made covering shipments in new or specially prepared cars between supervised weighing points which, in some instances, were kept under constant observation and which developed no apparent symptoms of leakage or other loss. Despite these precautions and the lack of any evidence of loss, material discrepancies were noted between the loading and the unloading weights, and claims for loss were filed quite as freely as on ordinary movements. The record contains reference to hundreds of cars moving under supervised weights without record of loss and with little apparent opportunity therefor, yet, as a general rule, the unloading weights were less than the loading weights, the apparent shortages varying from a few pounds to several hundred or even several thousand pounds. Another interesting fact disclosed by the evidence relating to such shipments is that quite frequently the destination weight exceeded the shipping weight even in instances where cars were recorded leaking. The following examples are illustrative:

From the records of the Minnesota state weighmaster statements were prepared showing the variations between the supervised loading and unloading weights on 1,219 cars weighed in October, 1915. This information summarized according to the character of the

movement and the reported condition of the car is shown in the following statement:

Reported car condition.	Extent to which destination weight varied from loading weight.				
	More.		Less.		Same.
	Number of cars.	Average per car.	Number of cars.	Average per car.	Number of cars.
Set-back cars:					
Defective.....	2	135	31	328	5
Clear record.....	2	135	187	67	25
Cross-town movements:					
Defective.....	11	63	112	231	5
Clear record.....	125	70	435	79	41
Line-haul movements:					
Defective.....			14	220	.....
Clear record.....	6	158	203	135	15

On a movement' of 33 specially prepared paper-lined cars from St. Louis to Nashville, Tenn., in 1913, it was shown that 22 cars ran short, 5 ran over, and 6 weighed the same, the average net shortage being 380 pounds per car. The shortages ranged from 28 pounds to 2,500 pounds per car and the overages from 10 pounds to 1,510 pounds per car. The cars arrived at destination in apparent good order, but two of them were found leaking and were repaired en route. On one of these defective cars there was no variation between the loading and the unloading weights. The other car ran short 700 pounds.

Some years ago the Missouri Pacific conducted a test on five shipments of bulk grain from Omaha to New Orleans. New cars were lined throughout with cheesecloth and fitted with new grain doors securely nailed and stripped with tongued and grooved lumber outside. En route the grain was passed through elevators at Atchison, Kans., and Argenta, Ark. The shortage indicated at each of these points averaged about 400 pounds per car, and there was a small additional loss on the movement thence to New Orleans.

Recently that line paid 24 claims on 69 cars shipped between elevators at Omaha, the length of haul being less than 1 mile. On 68 of the cars there was an apparent shortage of 35,970 pounds. The cars were prepared for loading by a cooperage bureau which used an average of 8 grain doors and 70 yards of paper lining per car, and they moved under the original seals without railroad record of defect. However, 24 cars were reported leaking by the Omaha Grain Exchange. The average loss from the cars reported leaking was 457 pounds per car and from the 44 cars which showed no symptoms of leaking 568 pounds per car. The greatest variation

in the weights of cars reported leaking was 1,200 pounds, and on four cars not so reported the apparent shortage ranged from 1,200 pounds to 5,210 pounds.

The following statement shows the variation between the supervised loading and unloading weights and also the reported car condition on 780 cars shipped from Minneapolis to Chicago in February, 1916:

• *Statement showing variation between loading and unloading weights of cars of bulk grain shipped from Minneapolis to Chicago during February, 1916; the condition of cars at Chicago as reported by board of trade weighers being also shown. Both loading and destination weights obtained under public supervision.*

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A witness for the Van Dusen Harrington interests testified that during a period of six years 653 cars were loaded and unloaded by the Pioneer Steel Elevator in Minneapolis without any rail movement, and that the average shortage was 19 pounds per 1,000 bushels. Between its elevators and other mills or elevators in Minneapolis the average shortage on 630 cars was 41 pounds per car where the length of the haul was about 1 mile; on 282 cars, 58 pounds per car where the haul was from  $1\frac{1}{2}$  to 2 miles; and on 1,082 cars, 93 pounds per car where the haul was about 4 miles. On another cross-town movement of 1,997 cars, where the length of the haul was from  $1\frac{1}{2}$  to 2 miles and the movement was over two lines, the average loss per car was 78 pounds. The loading and unloading weights on these shipments were supervised by the state, and in but few instances did the unloading weight exceed the loading weight. It is said that the maximum overage found was about 20 pounds, and the maximum shortage about 300 pounds.

The policy of rejecting claims on clear record cars rests (1) on the patent fact that if no grain escapes or is removed from cars in transit or is retained in the car by defective linings, the claimed weights are manifestly erroneous, and (2) on the assumption that the car condition records of the carriers and of the terminal markets are more reliable than the weights or records of the shippers.

As stated, most carriers have issued rules and instructions requiring their employees to see that suitable equipment is used for grain loading, that cars are properly coopered and promptly sealed, that the movement of cars in transit be carefully observed, and that a report be made of any defects noted. It is asserted that these instructions are generally complied with. Some lines, notably the Chicago, Rock Island & Pacific and the Chicago, Burlington & Quincy, provide a form which is attached to and accompanies the waybill, and upon which is entered the details of the shipping weight and a record in transit of all leakage or other losses or of defective car conditions and of the unloading weight. On arrival of the shipment at destination the form is detached and forwarded to the freight claim agent. There is thus a complete record of the movement, and, in the event of serious weight discrepancies, the shipper is advised and immediate investigation is instituted by the carrier.

The shippers contend, however, that in view of the large proportion of inferior cars in use, rough handling, night movements, etc., no system of inspection would discover all losses and that the degree of supervision over cars in transit now exercised and the present practices relating to the recording of leaks and other defects are so inadequate that the absence of any record of loss in transit or at destination resulting from defective equipment falls far short of proving that none occurred. This contention is supported by reference to numerous cases where cars were reported as arriving at destination in good order, but which, as a matter of fact, had been observed to leak in transit. Many carriers maintain a force of inspectors and car repairers at intermediate points whose duty it is to detect and repair leaking grain cars. It thus happens that many cars which have developed serious leakages in transit are repaired and arrive at the terminal market in apparent good condition. Shippers are not advised of such incidents unless claims are filed.

It was testified on behalf of the carriers that when claims are filed a thorough search is made of their records and the claimant is given the benefit of all bad-order reports. While this may be their general policy, the record discloses instances where claims were declined on the ground that there was no record of loss or other defect, but the claimant, either having or being able to secure information to the contrary, successfully insisted on settlement. That the car condition reports furnished to shippers by terminal markets do not disclose all cars that develop leaks or other defects in transit, or else that shippers do not make a practice of filing claims in all instances where such reports are received, is indicated by the fact that the records of the carriers include thousands of bad-order reports covering shipments upon which no claims were filed. It is said that the

Great Northern alone has over 30,000 reports of this kind covering shipments moving since September 1, 1915, upon which no claims were filed. Many of them, however, relate to the same car, and hence the number of shipments involved is uncertain.

While most carriers follow the practice of investigating and disposing of each individual claim as filed, others wait until the close of the shipping season and make a lump settlement of all claims filed by each individual shipper. This practice has become quite general in connection with the claims of the line elevator companies, and is largely followed by the Great Northern, the Northern Pacific, the Minneapolis, St. Paul & Sault Ste. Marie, and other lines throughout the northwest where the practice of filing claims on estimated weights prevails. These are termed compromise settlements, presumably because the amount paid is less than that claimed but more than that which the carrier originally offers to pay. They are determined in conferences between the freight claim agent or other railroad official and the claimant, and the amount paid appears to depend largely upon the relative ingenuity, persistency, and argumentative powers of the conferees. An analysis of these compromise settlements indicates that shippers accept in full satisfaction of all claims filed almost any amount less than that originally claimed. As illustrative of such settlements the following examples are cited: In 1914 the Andrews Grain Company accepted from the Northern Pacific \$17,500 in full settlement of claims aggregating \$102,091.48. The Great Northern in 1915 settled for \$100 claims filed by the Farmers' Elevator Company, of Noonan, N. Dak., aggregating \$1,220.55; and for \$22,500 claims filed by the Van Dusen Harrington interests aggregating about \$38,000.

On the 1915-16 crop 39 claimants who shipped 7,947 cars over the Great Northern filed 883 claims for \$14,424.71, and in compromise settlements received \$6,162.73, or 42.7 per cent of the amount claimed. Individual claimants received payments ranging from 8.19 per cent to 95.49 per cent of the amount claimed. Three of the claimants were line elevator companies who shipped 3,605 cars, filed 372 claims for \$4,591.28 and received in settlement \$2,577.25, or 56.1 per cent of the amount claimed. The aggregate of the payments to the remaining 36 claimants was equivalent to 36.4 per cent of the amount claimed. Shippers who have been parties to compromise settlements give as a reason for accepting much less than the amount claimed their desire to avoid the trouble and expense of litigation.

No uniform principle appears to be followed in arriving at the amount paid, except that the carrier endeavors to pay as little, and the claimant attempts to get as much, as possible. But in arriving at the amount the carrier usually gives consideration to various things,

among others whether the claims are based on supervised or on unsupervised weights or on estimates, whether the cars were leaking or otherwise defective, the character and condition of the elevator equipment, the manner in which the elevator is operated, and whether the elevator "cut-offs" show shortages or overruns for the season. An analysis of a number of compromise settlements made by the Northern Pacific, in which the claims are classified according to the manner in which the loading weights were ascertained and the reported condition of the cars used, is shown in the statement on page 560.

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**STATEMENT RELATING TO COMPROMISE SETTLEMENTS.**—Comparison of compromise settlements made by the Northern Pacific Railway Co. of claims filed in connection with movement of 1915-16 crop, showing number of cars shipped and character of claims filed by each claimant, the comparison as to character of claims being expressed in percentages.

No.	1915-16	1916-17	1917-18	1918-19	1919-20	Total
1	100	100	100	100	100	100
2	100	100	100	100	100	100
3	100	100	100	100	100	100
4	100	100	100	100	100	100
5	100	100	100	100	100	100
6	100	100	100	100	100	100
7	100	100	100	100	100	100
8	100	100	100	100	100	100
9	100	100	100	100	100	100
10	100	100	100	100	100	100
11	100	100	100	100	100	100
12	100	100	100	100	100	100

<sup>1</sup> Line elevators.

The above includes all settlements made with line elevators as of Mar. 14, 1917, but only a representative number of settlements with miller elevator companies.

Ordinarily the records of the carrier disclose little information respecting the details of these settlements, and the above analysis seems to show that like consideration is not always given to the same conditions. This may be due to the fact that claimants in some instances are more able to enforce their demands than in others, but it appears to be largely attributable to the many elements of uncertainty surrounding the weighing, the handling, and the transportation of grain. It is not only necessary to consider local conditions at origin and destination affecting the reliability of the claimed weights, and the records of leakage or other losses in transit, but to give the proper weight to each of these many factors. A leak may be slight or it may be serious. Scale and other conditions at the loading and unloading points may be good or they may be such as to produce varying degrees of inaccuracy. The mere fact, therefore, that in these compromise settlements more may be paid to one claimant than to another where each files claims on substantially the same number of defective cars and the loading and unloading weights are ascertained in substantially the same manner does not necessarily indicate unlawful discrimination or undue preference. But in all such settlements the individuality of the claimant or his representative and his opportunity or lack of opportunity to persistently press his claims upon the personal attention of the freight claim agent enter so largely into the final result that discrimination can not well be avoided. It would also appear that this plan of settlement furnishes a strong incentive to shippers to file as many claims as possible so that when the time for "negotiations and compromise" arrives they will be prepared to make some concessions without sustaining vital loss. On the other hand the carriers retain possession for indefinite periods of considerable sums rightfully due the claimants upon which they pay no interest.

The record affords an illustration of another and somewhat unusual plan of compromise settlements. In January, 1917, the then freight claim agent of the Great Northern addressed a letter to various line elevator companies stating:

We have now settled with claimants shipping 27,644 cars of grain during the period of September 1, 1915, to September 1, 1916. This includes settlement with nine old line elevators. Our payment averaged \$1.85 per car for all cars shipped. If you are willing to accept settlement on the same basis please so advise and voucher will be issued.

One or more of the claimants addressed accepted the settlement offered. There was no uniformity in the class of claims presented by the companies addressed or in the payments by the carrier which resulted in the average of \$1.85 per car shipped. The amount of loss claimed ranged from \$9.25 to \$45.16 per claim filed and from

\$4.55 to \$13.01 per car shipped. The average payments ranged from 15 cents to \$2.69 per car shipped. By what line of reasoning such an offer can be considered just and reasonable is not apparent. It is not seen how there can be any necessary or fixed relation between the number of cars shipped by a particular shipper and the amount he is entitled to recover for alleged losses of grain.

As stated, these compromise settlements are made principally by lines against which numerous claims are filed on the basis of estimated weights. Reference has previously been made to the fact that it is the general policy of the carriers to adjust such claims on the best basis obtainable where there is evidence of loss and to reject them where there is no evidence of loss. The preceding statement shows clearly the great disparity between the amount claimed and the amount paid where claims are based on estimated weights. It is quite usual for carriers to pay and for shippers to accept in settlement of such claims the same amount per car as the average ascertained loss per car on weighed shipments, and usually this does not exceed one-fourth of the amount claimed. The unreliability of estimated weights in general has been discussed. The representative of the Van Dusen Harrington interests of Minneapolis, which operate about 300 country elevators, was the only witness who made any serious attempt to justify estimated weight claims. It is his contention that if the measurements are accurately taken the weight at destination will invariably exceed that determined by estimate, even where the highest test weight per measured bushel is used. He also stated that he would be quite willing to buy grain on the basis of estimated weights as at present ascertained. That the favorable opinion of estimated weights expressed by this witness is not shared by grain dealers generally or justified by the facts must be concluded in view of the great preponderance of evidence to the contrary offered by numerous shippers, representatives of carriers, and officials connected with weighing organizations. If there is any such tendency surely it would be susceptible of proof, and it is hardly reasonable to assume that if it exists claimants would accept in settlement of estimated weight claims such a small proportion of the alleged losses. An official of the Osborne-McMillan Company and the Northland Elevator Company, which together operate about 100 country elevators and file numerous estimated weight claims, stated that such claims are unreliable and that these companies file them only tentatively, notifying the carrier to defer settlement until the end of the season, when the elevator cut-offs are made.

Undoubtedly carriers are equally liable for losses due to their negligence when the weight of the grain which they accept for

transportation has been estimated and when it has been weighed. The difficulty lies in determining with reasonable precision the quantity of grain lost, and it appears certain that estimated weight claims in general are for amounts largely exceeding the actual losses. Since it is only in rare cases that shipments can not be weighed at the shipping point, it is not unfair that strict proof of loss should be required where the shipper elects to use an infinitely more uncertain method of ascertaining the shipping weight.

It appears to be a frequent practice on the part of shippers, especially where shipments are not weighed, to show in the bill of lading as the weight of the shipment the marked capacity of the car or a weight 10 per cent in excess thereof. Such weights, of course, have little, if any, reference to the actual weight, and whether the bill of lading weight shall be stated as the marked capacity of the car or as 10 per cent greater depends solely upon the whim of the elevator agent. Some shippers, however, notably the companies controlled by the Van Dusen Harrington interests, file claims on basis of the bill of lading weight, if it exceeds the loading weight determined by measurement, although the destination weight is greater than the estimated shipping weight. In explanation of this practice it is stated that many shipments are track scaled by the Great Northern, and the claims are filed only in a tentative way, with a view to ascertaining whether any track scale weight taken exceeded the destination weight; and if so, prosecuting a claim for the apparent shortage. The claims as filed do not disclose that they are presented tentatively with a view to amending them later to the track scale weight, but indicate in a forceful way the claimant's intention to insist upon settlement as filed. The witness stated, however, that no settlement would be accepted on that basis, and that the carrier was fully aware of what was expected in connection with such claims.

A factor of some importance in many compromise settlements is the record of receipts and shipments from a particular elevator for the entire season, or for a stated period. By comparing the total weight of grain delivered at destination with the total loading weight of all grain shipped during the season and the total weight of grain purchased as shown by the elevator records, it is sought to determine the fact and the extent of the loss. The testimony on behalf of elevator companies is to the effect that overages on a season's business are comparatively unknown, but it is shown of record that such conditions not infrequently do exist. Under the laws of Minnesota, and perhaps those of other states, all elevator companies doing business as public warehousemen are required to render a report of the business transacted each year, which, among other things,

shall show for each kind of grain handled the amount on hand at the beginning of the year, the amount received during the year, the amount shipped or otherwise disposed of, and the amount remaining in the elevator at the close of the year. These reports are required to be submitted under oath, and therefore may be accepted with some degree of confidence as to the correctness of the facts therein stated.

An examination of such reports rendered by shippers from Minnesota who had filed claims on shipments to Minneapolis and Chicago in 1915 disclosed two very interesting facts, viz: (1) At many shipping points the season's business resulted in an overage, that is, the aggregate weight of the grain delivered at destination or otherwise accounted for exceeded the quantity of grain purchased as shown by the elevator records, and yet in numerous instances claims were presented on October shipments from these elevators. (2) Where the season's business resulted in a shortage, the claims for loss during the month of October exceeded in some cases the entire shortage for the whole year.

In 129, or 53 per cent of the 245 comparisons made, the elevators showed an overrun for the season averaging 8,317 pounds per elevator, while claims were filed for losses averaging 2,184 pounds per elevator on shipments moving during the month of October, the individual overruns ranging from 32 pounds to 69,240 pounds. In 29, or 12 per cent of the comparisons made, the shortages shown by the reports for the season were less than the amounts claimed to have been lost by the carriers during October, the average claimed loss per elevator being 5,996 pounds, while the average shortage for the season was but 1,383 pounds, the individual shortages ranging from 32 pounds to 7,620 pounds. In but 97, or 35 per cent of the comparisons, did the report disclose a shortage for the season in excess of the loss claimed for the one month. Assuming that the claims filed on October shipments were fairly representative of those filed during other months of the shipping season, the disparity between the loss claimed and that disclosed by the shippers' own records must have been considerable.

The practice of filing claims for losses where, according to the shipper's own records, the weight of the grain delivered at destination exceeded the weight of that shipped is not confined to the territory surrounding Minneapolis and perhaps is not peculiar to any particular locality. The following, compiled from an exhibit submitted by the secretary of the Kansas Grain Dealers' Association, covering shipments of the Larrabee Flour Mills Corporation, is illustrative.

*Shipments made by the Larrabee Flour Mills Corporation between July 1, 1916, and July 1, 1917.*

From—	Cars.	Shipping weight.	Destination weight.	Net overage.	Claims filed.	Claims paid.
	Number.	Bushels.	Bushels.	Bushels.	Number.	Number.
Wellford, Kans.....	43	56,397	55,403	65	16	7
Nashville, Kans.....	27	30,496	31,066	570	2	2
Eward, Kans.....	90	125,303	126,358	1,055	24	13
Sharon, Kans.....	55	60,561	61,864	1,303	5	4
Macksville, Kans.....	72	87,898	87,913	14	23	23
Gerlan, Kans.....	13	14,165	14,183	18	7	7
Belpre, Kans.....	69	88,489	88,763	264	26	24
Perth, Kans.....	17	20,859	20,898	7	6	3

Neither the quantity of grain alleged to have been lost nor the amount of the claims filed and paid on shipments from these stations is of record. From 13 other points named in the exhibit the aggregate weight of the grain delivered at destination was less than that at the point of origin.

Another exhibit, filed by the secretary and treasurer of the Crabb, Reynolds, Taylor Company, of Crawfordsville, Ind., to illustrate the comparative accuracy of automatic and other types of scales, shows that on 279 cars shipped from Ash Grove, Ind., to various destinations, the destination weights exceeded the shipping weights by 45,377 pounds, an average of 162 pounds per car, and that on 184 cars shipped from Linden, Ind., there was a net overage of 7,029 pounds, an average of 39 pounds per car. The shortages and overages on individual shipments ranged from a few pounds to several hundred or several thousand pounds per car. Quite a number of claims for loss were filed on shipments from these stations, but the record does not clearly show whether all claims that were filed are included in the statement.

Many shippers are willing to furnish the carriers with the record of their season's business and in adjusting claims for losses on particular shipments to allow credit for overages on other shipments. Other shippers are careful to file no claims for loss where the season's business discloses no shortage or to limit their claims to an amount which will not indicate an overage. It is said that this practice is followed generally by grain dealers at Omaha. But many shippers, the line elevator companies in particular, take the position that carriers are not concerned with whether the records covering the season's business of an elevator or its shipments for a stated period indicate an overage or a shortage and decline to furnish any information of that character. They contend that the only fact which properly may be considered is whether any grain shipped in a particular car was lost, and cite certain decisions of the courts of the state of Minnesota in support of that contention.

They urge that so many different factors enter into the question of shortages or overruns for a season that neither condition has anything to do with the question of loss on individual shipments.

But the only explanation offered of how the quantity of grain shipped from a particular elevator may exceed its recorded purchases is that a certain deduction or dockage, varying in each individual transaction, is enforced against the seller of the grain, and that grain is sometimes shipped through the elevator for other parties, and hence is not recorded as having been purchased. It appears, however, that the reports filed with the state show the amount of dockage and also the amount of grain stored or shipped for others. The elevator records should and doubtless do show such information in detail. It is also said that an overage on a particular kind of grain frequently results from the intentional or unintentional mixing of different kinds of grain. Thus, a load of wheat may be inadvertently placed in a bin containing rye, and thereby create a shortage in the wheat and an overage in the rye.

As contended by the shippers, the main fact to be determined is the existence and the extent of loss from the particular shipment covered by the claim, but, as we have seen, this can rarely, if ever, be ascertained by direct and conclusive evidence. It is necessary to consider many secondary facts which have a more or less direct bearing, and since inaccurate weighing is responsible for many apparent shortages a comparison between the destination weights and the weights of grain purchased and shipped during the season or other period should throw considerable light upon the aggregate amount of loss claimed.

It can not be doubted that the great majority of shippers do not intentionally file unfounded or fictitious claims, but it is shown that in many instances they make no proper effort to determine in advance whether a claim is justified. Some shippers carefully investigate all the material circumstances and satisfy themselves of loss before presenting claims. Others appear to assume that any discrepancy between the weight at destination and that secured on the loading scale or by some system of estimation represents a loss for which the carrier is liable. Thus oftentimes payment is demanded, not only for grain actually lost in transit but also for actual or apparent losses resulting from their own careless methods or inadequate facilities. Even though such unfounded claims may not be paid, an unnecessary burden of investigation is placed upon the carrier by the shipper's failure to exercise due care in preparing his claim. The following examples will serve to illustrate this phase of the situation:

The Victoria Elevator Company filed a claim against the Great Northern for the loss of 1,140 pounds of wheat. The elevator agent's weight report showed that the grain was weighed into the

car in 22 draughts totaling 85,920 pounds. The state weigher reported the car leaking and one seal broken when placed for unloading. The unloading weight was 85,740 pounds, or only 180 pounds less than that reported by the elevator agent. The claimant called its agent's attention to the fact that the car was reported leaking and asked whether he had not erred in reporting the loading weight. The elevator agent replied that the weight stated in his report was correct, but the claimant nevertheless filed a claim for the loss of 1,140 pounds based on an estimated loading weight of 86,880 pounds and a depth measurement of 63 inches.

The Osborne-McMillan Company filed claims on six cars shipped from Rogers, N. Dak., for a loss of 20,650 pounds, basing the claims on estimated weights. Investigation disclosed that the grain had been weighed on hopper scales, and that the actual discrepancy between the loading weights and the destination weights was only 2,430 pounds, or 12 per cent of the claimed loss. The Spaulding Elevator Company, of Warren, Minn., filed a similar claim for a loss of 940 pounds, based on measurements, whereas the destination weight was only 50 pounds less than the shipping weight ascertained on the loading scales. Claims of this kind were also filed by the Cargill Elevator Company, of Minneapolis.

The Atlantic Elevator Company, of Minneapolis, filed an estimated weight claim for the loss of 136 bushels of flax, it being claimed that 1,066 bushels were shipped. The fact that the car used was only 72 inches high suggested to the carrier that the claimed depth measurement of 62 inches was perhaps inaccurate, and upon investigation it was found that according to the shipper's records only 930 bushels of flax, the amount delivered at destination, had been purchased at that shipping point.

The Royal Elevator Company of Minneapolis filed an estimated weight claim against the Soo line, certifying that the grain was loaded to a depth of 96 inches. Investigation developed that the height of the car used was only 86 inches. The record shows that many claims of this kind have been filed by various shippers, among others the St. Anthony & Dakota Elevator Company, the Osborne-McMillan Elevator Company, and the Cargill Elevator Company.

The representatives of the carriers cited various instances where affidavits of loading weights were found to differ from the shippers' records; of an instance where a large grain company followed the practice of having affidavits of loading weights made out and executed in its general office at the terminal market and forwarding them to its local elevator agents for signature; of instances where estimated claims were based on a higher test weight per bushel than the actual test weight shown by the records; and of claims based on the weights of grain after it had been unloaded and cleaned at

destination. The claimed weights ranged from 30 to 1,070 pounds per car less than the actual weight of the grain before cleaning.

In addition to these examples of irregularities cited in the record, evidence of others of a more serious nature, such as the execution of affidavits containing known misstatements of fact and the falsification of records with an apparent intent to defraud, was found in connection with the Commission's examination of the carriers' claims records. It is perhaps not as well understood as it should be that by section 10 of the act to regulate commerce and section 1 of the Elkins act severe penalties are enforceable against a shipper—

who shall knowingly and willfully, directly or indirectly, himself or by employee, agent, officer, or otherwise, by false statement or representation as to cost, value, nature, or extent of injury, or by the use of any false bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to be false, fictitious, or fraudulent, or to contain any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, refund, or payment for damage or otherwise in connection with or growing out of the transportation of or agreement to transport such property, whether with or without the consent or connivance of the carrier, whereby the compensation of such carrier for such transportation, either before or after payment, shall in fact be made less than the regular rates then established and in force on the line of transportation.

Equally severe penalties are provided against carriers or their agents who "knowingly and willfully assist" or "willingly suffer or permit" shippers to obtain payment of fraudulent claims. The device of giving to a particular shipper an advantage through the payment of a fictitious or excessive claim for loss or damage of property in transit effects the same unlawful results and carries with it the same penalties as departures or concessions from the published rates. Even where there is no affirmative and deliberate intent to evade the law the same wrongs may result through the shipper's failure to use due care in filing claims or the carrier's failure or neglect to make proper investigation before paying them. This record discloses great laxity in both of these respects.

#### THE REMEDIES PROPOSED.

The difficulties in the way of securing prompt and satisfactory settlement of grain claims, due to the many elements of uncertainty surrounding the alleged losses, have given rise to a widespread feeling of mutual distrust. In these hearings the carriers and the shippers almost without exception expressed a desire and willingness to unite in any action tending to reduce the loss of grain, to limit the filing of claims to losses that are actually sustained, and to prompt and fair dealing with meritorious claims. All agree that there is need of closer cooperation, and that some method should be devised

for obtaining dependable weights, reliable and complete records of losses in transit, and the prompt and fair adjustment of claims.

While the prevention of grain losses is not the object of this proceeding, it is a closely related matter which is of great public importance and deserving of the closest attention by all who are engaged in the handling of grain. There is a very evident need of better methods and more accurate facilities for handling grain at shipping points, for greater uniformity of weighing rules and practices at terminal markets, for cars more suitable for the safe transportation of grain, for better grain doors and the more general use of other cooperage material, and for greater care in preparing cars for shipments, handling them in transit, and obtaining accurate records of losses or defects such as would permit losses to occur.

It is generally conceded that there should be adequate supervision of the scales and other elevator equipment and of the weighing, preferably by public authority or by some disinterested organization. Many shippers contend that the carriers should provide scales and perform or supervise the weighing at all shipping points, but the carriers assert that this would be impracticable and that it would entail prohibitive expense.

In the states of Oklahoma and Kansas, and perhaps in other states, agreements have been entered into between the principal carriers and grain dealers providing for the periodical inspection of scales and other elevator equipment, the expense being shared about equally by the carriers and shippers. It is said that this arrangement has produced gratifying results and will probably be extended to other localities in the near future.

A suggestion made by the carriers and approved by many shippers and representatives of grain dealers' organizations is that elevators should be classified according to their facilities and known methods of handling and weighing grain and that this classification should be considered in disposing of claims. Closely related to this is the suggestion that uniform and definite tariff rules should be adopted governing deductions from the shipping weights to cover natural shrinkage, unavoidable waste, and scale variations. The varying practices of carriers in this respect have been stated.

No doubt a proper classification of elevators would be desirable, for it would tend toward improved and standardized methods and facilities, and the allowances for scale variations, shrinkage, and waste could be regulated according to the relative excellence of facilities and the methods used in ascertaining the weights. The record clearly shows that properly supervised weights are far more reliable than unsupervised weights and that weights determined by estimate are much less worthy of credence than either. This suggests the thought that this distinction properly might be recognized

by differences between the rules governing deductions from the shipping weights on each class of shipments. It is, of course, realized that some terminal weights are more accurate than others, and that the weights at some country shipping points may be as reliable as the best obtained at terminal markets, but such conditions are exceptional, and until some proper classification of elevators has been devised it would perhaps not be unreasonable to deal with the situation as a whole on some fair average basis. In view of the great amount of consideration which has been given to this subject and of the many tests that have been made, it should not be difficult to fix upon some basis that would be fair and mutually acceptable to shippers and carriers.

The attitude of the New York Produce Exchange and the representatives of certain other terminal markets with respect to shrinkage allowances on shipments between supervised weighing points has been stated in the discussion of deductions to cover natural shrinkage and waste. The Illinois Grain Dealers' Association contends that a substantially similar rule should be observed in adjusting claims on shipments from unsupervised weighing points to terminal markets. That association advocates the tentative adoption of the following agreement:

All claims should be allowed or rejected within 60 days from date of filing.

Shippers' weights and board of trade or state weights shall be accepted as the basis of determining loss, unless it can be shown that through fraud or mistake these weights in any specific instance are not reliable.

No claims should be filed where the net amount due under this agreement is less than \$2.

On claims where there is no evidence of leak at destination and where no repairs have been made in transit, and where the cars show no evidence of rough handling or of theft, and where the original seals are intact, the same will be allowed, but with a deduction of one-half of 1 per cent of shippers' weights on corn and one-fourth of 1 per cent on small grains.

On claims for shortage where there is evidence of leak in transit or at destination or where the cars are not under proper seal protection at destination or where same show evidence of rough handling, the claims will be allowed without deduction. The carriers should recognize this association in the settlement of claims.

Testifying in behalf of the members of his organization, the secretary of the National Council of Farmers' Cooperative Associations, representing nearly 3,000 elevator companies and a membership of more than 300,000 farmers, stated their position to be as follows:

We are willing to cooperate, not for the purpose of making it easier for us to collect our claims, but for the purpose, if possible, of eliminating those claims. This is our proposition, which I will guarantee that our people will adopt on this shortage matter, and for those of our class who will not consent to adopt it I have nothing to say, I have no defense to offer.

We will continue to inspect and clean and cooper their cars without charge for labor. We will install all scales according to any specifications which they

will furnish. We will permit the carriers to supervise our scales and our weighing in any way to their entire satisfaction, provided the handling of grain is not delayed. We will pay the carriers a fair amount for inspecting, cleaning, and repairing our scales. We will keep such record of all grain weighed into our elevators, and all grain weighed out of our elevators, and all grain for which we receive pay from buyers, and permit the carriers to have free access to such records at any and all times. We will deduct all grain for which we receive pay from all grain for which we pay. From the difference we will deduct any excess of our elevator outweights over our elevator inweights. From that remainder we will agree to deduct one-half of 1 per cent on corn, and one-fourth of 1 per cent on all other grains. \* \* \*

In payment for this shortage, we will accept the average net price for which our grain has sold during the year, all this to be done at the close of the year's business. But as a final agreement, after we have cleaned, inspected, and coopered their cars, without a charge for labor, paid them for investigating, cleaning, and repairing our scales, and deducted elevator overage and a shrinkage, and allowed them to retain free the value of the shortages, until the end of the year, we will not agree to then wait 12 months after the close of the year for the balance of the claims.

The rejection of claims or the undue delay in adjusting them in cases where shippers have made an earnest effort to conduct their operations in a manner acceptable to the carriers, and to limit the filing of claims to those covering apparent actual losses was referred to by some shippers. If the present undesirable situation is to be remedied by cooperative action it must, of course, be recognized that improvement in the facilities, methods, and practices of shippers carries with it an obligation on the part of the carriers to strive for greater efficiency in the investigation and adjustment of claims.

At the present time neither the carriers nor the shippers are entirely frank in their dealings with each other. There is a disposition on the part of some shippers to present claims without proper justification and to withhold from carriers any information concerning defective conditions or probable sources of error which would detract from the apparent merits of their claims. On the other hand, carriers withhold from shippers facts within their knowledge which would justify the filing of claims or have the effect of strengthening the claims presented. Inasmuch as carriers are held responsible for discrepancies or losses which to a large extent may and do result from conditions solely within the shipper's control, they should be permitted to inspect the shipper's facilities and methods of operation, and be afforded access to such records as have a bearing upon the question of loss. Likewise, the shippers are entitled to information as to the manner in which shipments are handled by the carrier, and to be advised of any losses or damage occurring in transit.

As we have stated in other cases, shippers should reject cars that are unfit for loading and the carriers should refuse to accept any shipment tendered in an unfit car or where the shipper has failed

properly to install the grain doors or otherwise to prepare the car for the safe transportation of grain.

The carriers are entitled to know at the time of shipment the claimed loading weight and how it was determined. They should closely supervise the movement and make an accurate record of all leaks or other losses or of conditions which would permit losses to occur, such as lack of seal protection.

It is also thought that the situation could be materially improved by the use of a standard form for the presentation of grain claims. In this form the shipper should be required to certify to the correctness of the facts therein stated, which, among other things, should include detailed information as to the loading weight, the condition of the car, the installation of grain doors and other cooperage, and the condition of scales and other equipment used in handling the grain. This, in connection with the record of the car in transit kept by the carrier and the record of the weighing and car condition at destination, would place before the carrier when the claim is filed a statement of the facts necessary to be considered in disposing of the claim. It would deter shippers to a considerable extent from presenting fraudulent claims or claims which if properly investigated would be shown to be wholly without merit, especially if a close supervision and check were maintained.

Another suggestion which appears to have considerable merit is that claims should be investigated or that the claims records should be audited by some quasi independent organization, such as railway weighing associations or inspection bureaus, following the present practice of many of the central freight association lines and similar to the manner in which demurrage and transit regulations and practices are now supervised. The investigation of claims or a frequent audit or examination of the carriers' claims records by such agencies would conduce to uniformity of practice and perhaps result in the better handling of claims.

It is recommended that no order be entered at this time, but that the carriers and the shippers, through their representatives, be given opportunity to confer and agree upon what rules and practices reasonably should be observed; that the rules and practices thus agreed upon, if they appear reasonable and nondiscriminatory, be tentatively indorsed by the Commission; and that the proceeding be held open for such further action as may be found necessary or proper.

*CLARK, Commissioner:*

The foregoing proposed report of the examiner was served upon the parties, certain exceptions thereto were filed by counsel for shippers and by the Nebraska State Railway Commission, and were

orally argued before the Commission. No substantial error of fact was alleged or pointed out. The exceptions relate to certain of the conclusions reached by the examiner and are based primarily on the following contentions:

1. That loss of weight due to natural shrinkage and unavoidable waste in transit is insignificant, and that any deduction therefor is arbitrary and unreasonable.

This objection is urged by the Nebraska commission and by counsel for all classes of shippers. It is insisted that even where apparent losses in transit are attributable to these causes the shrinkage is not uniform, and therefore that the deduction of any arbitrary amount is illegal and deprives the shipper of his property without due process of law. These contentions were fully considered and rejected in the *Crouch Grain Company Case, supra*. Evidence offered by the chief weighmaster of the state of Minnesota is to the effect that on a weight of 60,000 pounds shrinkages of 60 or 70 pounds on wheat, and 120 pounds on oats and barley, are normal and not indicative of inaccurate weighing or losses in transit. Evidence of similar import was offered on behalf of the carriers and by certain other witnesses engaged in the handling of grain. This evidence and that relating to the loading and unloading weights of clear record cars tends to show that the examiner's conclusions respecting this feature of the case are supported by the record.

2. That errors in unsupervised weights almost invariably result in the loading of a greater weight of grain into cars than is registered by the scales.

Opposed to this contention is the evidence offered by many scale experts, that relating to certain specific scale conditions and tests and that pertaining to the loading and unloading weights of clear record cars. Even if it be conceded that deficiencies in scales or errors in weighing do tend to result in the underweighing of shipments at the loading point in from 50 to 75 per cent of all such cases as contended by counsel for shippers, the remaining instances where the opposite condition may or does obtain are sufficiently numerous to justify the examiner's conclusion that "inaccurate weighing prevails at country shipping points to an extent which impairs the credibility of unsupervised weights as a whole, and which justifies careful inquiry into local conditions before accepting the claimed weights as correct."

3. That the average claimed losses per car shipped from country points are less than those between terminal markets.

It is argued that such a comparison tends to show that, generally speaking, unsupervised weights are about as reliable as those of the terminal markets, and that claims based on such weights are not ex-

cessive. The following analysis of claims on October, 1915, shipments, however, tends to show that claims on shipments from country points to terminal markets do not average less per car shipped than do those between supervised weight points:

	Minneapolis.	Omaha.	Kansas City.	St. Louis.	Chicago.	Peoria.	Milwaukee.	Total and average.
Number cars shipped.....	18,679	2,059	4,064	2,504	9,450	1,066	2,982	40,824
Average claimed loss per car shipped, pounds.....	154	223	164	75	69	83	117	129
Percentage claims filed, based on supervised weights.....per cent..	.....	.....	27.46	79.54	47.35	79.29	50.44	27.01
Percentage claims filed, based on unsupervised scale weights...per cent..	75.43	99.79	60.04	20.46	51.42	20.12	47.58	61.82
Percentage claims filed, based on unsupervised estimated weights, per cent.....	24.57	.21	12.5	.....	1.22	.59	1.98	11.16

The record does not definitely show the respective number of cars shipped upon which the weights were supervised or upon which the loading weights, ascertained by weighing or by estimate, were unsupervised. It will be noted, however, that to Minneapolis and Omaha where no claims were based on supervised weights, and to Kansas City where only 27.46 per cent of them were so based, the average claimed loss per car on all cars shipped was much greater than to Chicago, St. Louis, Peoria, or Milwaukee, where the claims were based largely on supervised weights. That estimated weight claims are not wholly responsible for the greater average claimed losses from unsupervised weight points is indicated by the fact that to Omaha where only two-tenths of 1 per cent of the claims were based on estimates the average claimed loss per car shipped largely exceeded that to any other market. The following comparison of the claims filed by the line elevator companies and by all other shippers on shipments to Chicago and Minneapolis in October, 1915, is also significant:

	Minneapolis.	Chicago.
	Pounds.	Pounds.
Line elevators, average claimed loss per car shipped.....	381	172
All other shippers, average claimed loss per car shipped.....	51	53
Line elevators, average claimed loss per car on cars covered by claims.....	1,638	476
All other shippers, average claimed loss per car on cars covered by claims.....	1,034	1,537

Comparing the shipments of the line elevator companies it will be noted that the average claimed loss per car shipped to Minneapolis where no claims were based on supervised weights was 381 pounds per car as against an average claimed loss of 172 pounds per car on shipments to Chicago where over 47 per cent of the claims

were so based. Such a disparity is not shown by the claims of all other shippers, but it seems unlikely that many of their claims on shipments to Chicago were based on supervised weights, for generally speaking the farmer elevator companies and independent shippers are not engaged in shipping grain from Minneapolis or other primary markets. Considering only the number of cars covered by claims, it will be seen that the average loss per car claimed by all other shippers on shipments to Minneapolis and Chicago was substantially the same as that claimed by the line elevators on shipments to Minneapolis and more than three times as much as that claimed by them on shipments to Chicago. Obviously the fact that claims are not filed for such small apparent losses on shipments from the country, and more especially those of the independent shippers, as on shipments between terminal markets increases the average amount of the claims filed; but it also tends to confirm the evidence showing that supervised weights are and properly should be regarded as more dependable than unsupervised weights. Otherwise there appears to be no substantial reason why claims on shipments from the country should not be as numerous in proportion to the cars shipped and be filed for as small amounts as on shipments between terminal markets.

While the report of the examiner calls attention to widespread deficiencies of scales, cars, and other grain-handling equipment, to faulty methods of operation and to the questionable practices of certain shippers and carriers, it was his conclusion that a majority of the shippers strive for efficiency and accuracy in the handling of grain and endeavor to avoid the filing of unfounded or fictitious claims. All parties to this proceeding have shown a commendable disposition to cooperate in any practical measures which will tend to reduce the losses of grain in transit and to bring about prompt, fair, and just settlement of claims. It is not shown or believed that all of the conditions which have been criticized are characteristic of all shippers or of all localities, but, as stated by the examiner, to the extent that faulty conditions or improper practices exist in any quarter, they should be given due consideration and attention. The examiner's report, conclusions, and recommendations are adopted by the Commission. The carriers and shippers will be expected to arrange promptly for a conference of their representatives, with a view to an agreement upon rules and practices to be observed in filing, investigation, and disposition of claims. In the meantime the proceeding will be held open for such action as may be found necessary or proper.

**INVESTIGATION AND SUSPENSION DOCKET No. 1100.**

**GRAIN SCREENINGS RATING.**

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*Submitted October 10, 1917. Decided January 23, 1918.*

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Respondents having offered no justification for the proposed increased rates on grain screenings, in carloads, the suspended schedules are ordered canceled.

*R. G. Brown* for Chicago, Rock Island & Pacific Railway Company.

*B. F. Moffatt* and *F. M. Miner* for Minneapolis & St. Louis Railroad Company.

*R. D. Sangster* for protestants.

*W. S. Washer* for Atchison Commercial Club.

**REPORT OF THE COMMISSION.**

**DIVISION 2, COMMISSIONERS CLARK, DANIELS, AND WOOLLEY.**

**DANIELS, Commissioner:**

By schedules filed to take effect June 1, 1917, and July 1, 1917, respectively, the respondents proposed to increase rates on grain screenings, in carloads, between certain points in western trunk line territory. Upon protests of the Minneapolis Traffic Association, the Atchison Commercial Club, and the Commercial Club of Kansas City, Mo., the schedules were suspended, and now are suspended until March 29, 1918.

No justification was offered at the hearing by the respondents for the proposed increased rates, and they stated they proposed to restore the rates as they existed prior to the filing of the suspended schedules. A proposed revised supplement has been submitted for our approval, which does not, however, contain the exact basis carried in the schedules now in force. It can not, therefore, be approved on this record.

The schedules naming the proposed increased rates will be ordered canceled.

**INVESTIGATION AND SUSPENSION DOCKET No. 1075.**  
**CRUSHED ROCK FROM PIXLEYS, MO.**

*Submitted October 24, 1917. Decided February 8, 1918.*

Proposed increased charges on crushed rock in carloads from Pixleys, Mo., to points on the line of the Kansas City Terminal Railway in the switching district of Kansas City, Kans., found justified.

*J. R. Bell* for Kansas City Terminal Railway Company.

*C. C. P. Rausch* for Missouri Pacific Railway Company.

*John M. Cleary* and *K. M. Wharry* for protestant.

**REPORT OF THE COMMISSION.**

**DIVISION 2, COMMISSIONERS CLARK, DANIELS, AND WOOLLEY.**

Under appropriate suspension orders, there is here in issue the propriety of increased charges proposed by the respondents for the transportation of crushed rock in carloads from Pixleys, Mo., to Kansas City, Kans. The service performed consists of a road haul of about 8 miles by the Missouri Pacific Railway from Pixleys to Sheffield, Mo., and a switch movement thence by the Kansas City Terminal Railway to points on its rails within the switching district of Kansas City. The present and proposed charges are:

	Road haul, per 100 pounds, Pixleys to Sheffield.	Switching service beyond Sheffield, per car.			
		Four miles and under.	Over 4 miles and under 10.	Five miles and under.	Over 5 miles and under 10.
Present.....	Cents. 1	33	34	35	36
Proposed.....	1				

Other quarries, in competition with the one at Pixleys, are located in that general vicinity, one at Rosedale, Kans., on the St. Louis-San Francisco; another at Leeds, Mo., on the Kansas City Southern; and a third at Morris, Kans., on the Santa Fe, respectively, about 4, 9, and 11 miles distant from Kansas City, Mo. From these quarries to the points of interchange with the Kansas City Terminal

Railway in Kansas City the charge for the road-haul service is at present the same as from Pixleys, and this also was true prior to December 1, 1914, of the charges for switching service beyond the points of interchange.

On December 1, 1914, the Kansas City Terminal Railway Company, hereinafter called the terminal company, increased from \$3 and \$4 a car to \$5 and \$6, in accordance with the distances shown in the preceding table for the proposed rates, its separately established switching charges on all commodities, carloads, having origin or destination beyond the switching district of Kansas City. Protests filed by the Kansas City commercial interests at the time this general change was contemplated were subsequently withdrawn. Although this general increase affected the through charges on crushed rock from Rosedale and Morris, it did not likewise affect the through charges on that commodity from Leeds and Pixleys, for the reason that the latter charges were published by the road-haul carriers in the form of joint through rates. A corresponding increase, however, was later made in the joint through rate from Leeds; so that the lower rates formerly charged from all the quarries mentioned are at present maintained only from Pixleys, and it is intended by the proposed increases here under consideration to remove that discrimination.

A cubic yard of crushed rock is estimated to weigh 2,350 pounds; about 40 cubic yards, or approximately 94,000 pounds, comprising an average carload. Before the railroads acquired the larger type cars of greater carrying capacities, the average loading was not in excess of 40,000 pounds, and during that period the freight charges from all the quarries averaged about 41 cents per cubic yard. The present maximum through charges from Pixleys, based upon the average loading of 94,000 pounds, are approximately 33.5 cents per cubic yard, while the proposed charges average 38.5 cents. In May, 1913, when operations at the Pixleys quarry were commenced, the selling prices per cubic foot of crushed rock ranged from 80 to 90 cents, while at present the range is from \$1 to \$1.10. These prices are f. o. b. the quarry, and the freight charges are borne by the vendee.

In a single protest from the quarry at Pixleys it is urged that the proposed charges are unreasonable, unduly prejudicial, and will cause the petitioner great financial loss by "not enabling him to compete for business" at points on the tracks of the terminal company in Kansas City. The evidence of record nevertheless shows that, from competing quarries, on basis of the through charges, which the respondent here proposes to establish from Pixleys, crushed rock is now being supplied at points in Kansas City on the tracks of the terminal company.

As shown in the preceding table, the proposed increases are only in the charges for the switching service from Sheffield to Kansas City, and the terminal company assumed the burden of justifying them. The reasonableness of these same switching charges, which became effective on all commodities under the general increase of December 1, 1914, was in issue, in so far as they applied on sand from Turner, Kans., to Kansas City, Mo., in *Kaw River Sand & Material Co. v. A., T. & S. F. Ry. Co.*, 42 I. C. C., 504. In that proceeding the burden of proof also fell upon the terminal company; but, on an indefinite and far from complete showing of switching costs, which the respondent almost wholly relied upon, it did not succeed in justifying the higher charges. On the record here, however, there is a much more comprehensive presentation.

The terminal company, although a separate corporation independently operated, is in a practical sense a joint facility of the 12 tenant trunk lines that own it. These tenant lines bear the taxes and the interest on the funded debt of the terminal company and also receive the net corporate income or bear the deficit. Apart from the switching of carload freight, the terminal company maintains and operates the union passenger station at Kansas City, Mo., and performs the switching service incident to the "making up" and "breaking up" of passenger trains. For this service no revenue charge is made, the expense being proportionately borne by the tenant lines. For freight service, however, the established switching charges are imposed. As a whole, the plan of operation and the method of accounting are such as will permit a reasonably accurate determination, as between freight and passenger, of the total expenses incurred in performing each class of service. The property that is used in common for freight and passenger service by both the terminal company and its tenant lines, is divided into operating zones, subprimary accounts being kept of the operations and car-mile performance in each zone. In the operation of this part of the property, which is chiefly the main-line tracks, the maintenance expense is the only item that need be arbitrarily apportioned, and this is done on basis of the car-mile performance. General expenses incurred in operating the whole property, such as the salaries of administrative officers, are apportioned in the same way. All other expenses are definitely allocated. These accounts, which in total figures are substantially confirmed in the annual reports made to the Commission, show a deficit prior to December 1, 1914, on which date the switching charges were generally increased. This deficit, for 11 months ended November 30, 1914, amounted to 61 cents on each revenue car handled. Immediately following the increase, for the 10 months period ended September

30, 1915, the revenue per car amounted to \$5.22, the expenses \$3.75, and the net revenue \$1.47. For the first three months of 1917 the revenue per car was \$5.41 and the cost \$4.82, or a net revenue of 59 cents. All of these figures are exclusive of taxes and interest, which amount to \$2.17 per car, and which if taken into consideration would produce a cost per car in excess of the revenue charge. Neither the higher wages growing out of the recent hours of service legislation nor the rapidly increasing cost of material, supplies, and fuel are fully reflected in the costs for the first three months of 1917.

The amount of interest and taxes was determined by assigning to switching operations the interest and taxes on the actual book value of the property used exclusively in that service, and adding thereto, on basis of the use or car-mile performance, a proportion of the interest and taxes on the actual book value of the property used in common. This item, as before explained, is borne proportionately by the tenant carriers; and since these carriers also contribute through switching absorption approximately 85 to 90 per cent of the terminal company's revenue, it is clear that a very substantial proportion of the taxes and interest must come out of their general transportation revenue. In other words, the freight rates of the tenant lines, even if they do not include full compensation for terminal services, must bear any deficit arising out of the assessment of inadequate switching charges by the terminal company. The economic soundness of this practice is not in issue here, and mention is made of it merely to show that in this situation interest and taxes, although borne by the tenant lines, are items that can not be disregarded in determining the reasonableness of the switching charges.

The protestant, in urging that the present charges from Pixleys to Kansas City are adequate and that the proposed charges are unreasonable, points out that in switching for each other at Kansas City, Mo., and also at many of the large industrial centers of the middle west, the trunk lines charge only \$2 or \$3 a car. A mere comparative statement of such charges, however, unsupported by a showing of the conditions under which they are maintained, can not be accepted as proof that the switching charges here proposed by the terminal company are unreasonable.

If the figures presented are accurate, and there appears of record no reason to question them, the present charges of \$3 and \$4 a car for the switching service are less than the operating cost, and the increases proposed will not take care of the deficit. The 1-cent rate for the road-haul service from Pixleys to Sheffield, which yields \$9.40 a car for an 8-mile haul, including the terminal service at the point of origin, does not appear to be too high. As a whole, the evidence of record shows that the proposed through rates are not

unreasonable, and since the increased charges have been justified the suspension orders should be vacated.

WOOLLEY, *Commissioner*:

No exceptions have been taken by the parties to the foregoing report proposed by the examiner, which was served upon them under rules of procedure providing for the filing of exceptions thereto within 20 days. Upon consideration of the record we approve the proposed conclusions and adopt that report as the report of the Commission. An order will be entered vacating the orders of suspension.

48 I. C. C.

No. 9653.

CAROLINA WOOD PRODUCTS COMPANY

v.

SOUTHERN RAILWAY COMPANY ET AL

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PORTIONS OF FOURTH SECTION APPLICATIONS 1545  
AND 1952.

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*Submitted October 20, 1917. Decided February 8, 1918.*

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Upon complaint that through charges on chestnut extract wood, in carloads from stations on the Louisville & Nashville Railroad in Georgia to Andrews, N. C., on the Southern Railway are unreasonable and unduly prejudicial; *Held*, That the through charges are shown to be unreasonable. Reasonable maximum through charges prescribed for the future. Reparation awarded. Fourth section relief denied.

*Duff Merrick* for complainant.

*Claudian B. Northrop* and *I. L. Graves* for Southern Railway Company.

*William Burger* and *J. M. Dewberry* for Louisville & Nashville Railroad Company.

*H. T. Ratliff* for Champion Fibre Company, Canton, N. C.

REPORT OF THE COMMISSION.

DIVISION 2, COMMISSIONERS CLARK, DANIELS, AND WOOLLEY.

DANIELS, *Commissioner*:

The following report is, in substance, the same as proposed by the attorney-examiner. The report was served on the parties who filed no exceptions. The report is adopted by the Division.

Rates on chestnut extract wood to Andrews, N. C., on the Southern Railway, from 21 stations in the state of Georgia on the Louisville & Nashville Railroad, are in issue in this case. It is alleged by complainant that the rates are unreasonable, in violation of section 1 of the act; that they are unduly prejudicial compared with rates on similar traffic to Knoxville, Tenn., Tellico Plains, Tenn., and Canton, N. C., in violation of section 3; and that lower rates via the same route to Canton, a farther distant point than Andrews, constitute departures from the long-and-short-haul rule of section 4.

Applications of defendants for relief from the provisions of section 4, in so far as they are involved herein, were set for hearing in connection with this proceeding.

Complainant is a corporation engaged at Andrews in the manufacture of tanning extract from chestnut wood. Andrews is on a branch line of the Southern Railway extending south from Asheville, N. C., to Murphy, N. C. Murphy is about 16 miles from Andrews, and is the terminus of a branch line of the Louisville & Nashville extending north from Blue Ridge, Ga., a distance of about 26 miles.

The wood used by complainant is shipped in short lengths, and, generally throughout this territory, takes commodity rates applicable to cordwood. The complainant consumes from 35,000 to 40,000 cords annually. From August 7, 1916, to September 1, 1917, it received 2,328 cords from Georgia points on the Louisville & Nashville.

There are no joint rates to Andrews on chestnut extract wood from points in Georgia. The through charges are made up of rates per cord of 128 cubic feet from points of origin to Murphy published by the Louisville & Nashville, plus the local North Carolina class P rate applicable on lumber from Murphy to Andrews, published by the Southern. The Southern does not publish commodity rates on extract wood applicable to shipments from Murphy to Andrews. An analogous application under rule 5 of the southern classification is made by charging the class P rate on lumber.

Rates of the Louisville & Nashville for its part of the charge for the through haul from points of origin to Murphy range from 80 cents to \$1.10 per cord. The class P rate from Murphy to Andrews, a distance of 16 miles, is \$9.38 per 20,000 pounds, with charges for greater weight in proportion. The complainant estimated that a cord of chestnut wood weighs on the average about 4,000 pounds. Most of the cars received by complainant weighed 40,000 pounds or more. Assuming that a cord weighs 4,000 pounds, and the cars were loaded to 40,000 pounds, the charges of the Southern were about \$1.88 per cord. Obviously, the per cord charge would vary from Murphy to Andrews with the weight. It is stated by complainant that a cord of wood will vary in weight from 3,500 to 6,000 pounds, dependent on its condition when shipped, as to being green, wet, or dry. In the southern classification a cord of wood is estimated to weigh 3,500 pounds.

At the hearing a representative of the Southern stated that that company was prepared to, and would, publish a proportional rate of 60 cents per cord on chestnut extract wood from Murphy to Andrews applicable to shipments from beyond Murphy, and was willing to pay reparation to complainant on shipments made by it on the basis of the difference between the amount paid and the amount that would have been paid had the proposed 60-cent rate been in effect, if ordered to do so by the Commission.

The defendants stated that they had no objection to publishing joint rates to Andrews on the basis of the rates now published by the Louisville & Nashville to Murphy plus the proposed 60-cent rate of the Southern from Murphy to Andrews. There is, however, no prayer for joint rates in the petition.

Exhibits were filed by complainant and the Louisville & Nashville showing distances and rates from the points of origin to Murphy, Tellico Plains, and Knoxville. From these exhibits the following table has been compiled showing the distances and the rates, in dollars per cord, to the three points as published by the Louisville & Nashville:

From—	To Murphy.		To Tellico Plains.		To Knoxville.	
	Distance.	Rate.	Distance.	Rate.	Distance.	Rate.
	<i>Miles.</i>		<i>Miles.</i>		<i>Miles.</i>	
Murphy Junction.....	24	\$0.80	87	\$0.90	127	\$1.10
Blue Ridge.....	26	.80	85	1.00	125	1.20
Curtis.....	27	.80	86	.90	126	1.10
Galloway.....	28	.80	87	.90	127	1.10
Barkwood.....	29	.80	88	1.00	128	1.20
Maxwell.....	30	.80	89	.90	129	1.10
Kyle.....	31	.80	90	.90	130	1.10
Lucius.....	32	.80	91	1.00	131	1.20
Cherry Log.....	34	.80	93	1.00	133	1.20
Searcy.....	34	.80	93	1.00	133	1.20
White Path.....	36	.90	95	1.00	135	1.20
Northcutt.....	38	.90	97	1.00	137	1.20
Ellijay.....	42	.90	101	1.00	141	1.20
Talking Rock.....	56	1.00	115	1.10	155	1.30
West Brook.....	60	1.00	119	1.10	159	1.30
Mascotte.....	61	1.10	120	1.10	160	1.30
Jasper.....	62	1.10	121	1.10	161	1.30
Tate.....	67	1.10	125	1.20	165	1.40
Nelson.....	70	1.10	128	1.20	168	1.40
Ball Ground.....	74	1.10	132	1.20	172	1.40
Bannister.....	76	1.10	134	( <sup>1</sup> )	174	( <sup>1</sup> )

<sup>1</sup> No commodity rate.

To the rates to Murphy there are now added approximately \$1.88 per cord to make the through charges to Andrews. In other words, the charges on the through transportation are approximately \$2.68, \$2.78, \$2.88, and \$2.98 per cord from the different origin groups, respectively. By using the rate of 60 cents per cord proposed by the Southern the through charges would be \$1.40, \$1.50, \$1.60, and \$1.70 per cord. The complainant appears satisfied with the proposed rate from Murphy to Andrews, but contends that the through rates should be no higher than are contemporaneously maintained by the Louisville & Nashville to Knoxville.

The chief competition that complainant meets in buying wood at the points of origin in Georgia is from Tellico Plains and Knoxville, and the contention is that lower rates to those points unduly prejudice it; and that it is thereby placed at a disadvantage in the sale of its product at competing markets in the northeast to which its

rates are higher than from Knoxville or Tellico Plains. There is no complaint here of the outbound rates from complainant's plant.

Complainant buys about 90 per cent of the wood received by it from Georgia at Ellijay, about 58 miles from Andrews. As illustrative of the rates generally it compares the charge of \$2.78 per cord to Murphy with the rate of \$1.10 to Tellico Plains for a distance of about 100 miles, and \$1.20 to Knoxville for a distance of about 140 miles. It insists that by comparison the through charges to Andrews are shown to be unreasonable.

In evidence and on brief complainant refers to joint rates in effect to Canton, a point on the Southern 90 miles beyond Andrews. The attack on the rates to Canton is directed to the adjustment now in effect to Andrews without regard to the fact that it is proposed by the Southern to make the rate to Andrews at least 30 cents per cord less than to Canton from the Georgia points of origin. The joint rates to Canton range from \$1.70 to \$2 per cord, dependent on the point of origin.

The Southern introduced no evidence with respect to the reasonableness of the rates, contenting itself with the submission of its proposition to reduce its part of the through charges from Murphy to Andrews.

The Louisville & Nashville shows that while there are joint rates between it and the Southern on extract wood from the Georgia stations named by complainant to Canton, the proportion accruing to it is the same to Murphy as on shipments to Andrews. Considerable evidence was introduced to show the physical characteristics of the Louisville & Nashville Railroad from the points of origin to Blue Ridge. It is sufficient to state here that the line is exceedingly difficult to operate because of steep grades and sharp curves. For about 3 miles from Blue Ridge on the branch to Murphy the country is practically level, then the roadway begins to ascend from a 0.5 per cent grade to 2 per cent at Youngstone Summit; at Kinsey, N. C., there is a grade of 1 per cent; and just before Murphy is reached there is a 2.35 per cent grade against the load. It is further shown that the haul to Tellico Plains and Knoxville beyond Blue Ridge is down grade in favor of the load.

Numerous comparisons of rates on cordwood were submitted for distances comparable to those to Murphy from the Georgia stations named by complainant on other lines of the Louisville & Nashville system in the same general territory, where transportation conditions are similar, and similar rates of other carriers. It is not necessary to discuss them in detail here. It is sufficient to state that they show that rates to Murphy are generally lower than the rates on the same traffic for similar distances in the same region.

The rates to Tellico Plains and Knoxville are to consuming points on the Louisville & Nashville, and that carrier secures the haul on the outbound product. To Murphy the rates are proportionals applicable on traffic to a consuming point on the line of another carrier which receives the haul on outbound shipments of the product.

The haul to Andrews is a two-line haul involving four terminal services, while to Tellico Plains and Knoxville the haul is over one line, with but two terminal services. The average hauls to all points are for comparatively short distances. The average haul of the Louisville & Nashville on all traffic on its system is about 175 miles.

Complainant asks for reparation on shipments made by it to Andrews from the points of origin in Georgia since July 29, 1916, on which it paid and bore the freight charges.

We are of opinion and find that the through charges on chestnut extract wood in carloads from points of origin named by complainant were, are, and for the future will be unreasonable to the extent that the factor published by the Southern from Murphy to Andrews is unreasonable; that the through charges for the future should not exceed the sums of the present proportional rates from the points of origin to Murphy published by the Louisville & Nashville and the proposed charge of the Southern of 60 cents per cord from Murphy to Andrews. We are further of opinion that with the new proportional rate of 60 cents per cord from Murphy to Andrews, the record does not support the charge as to undue preference to Knoxville and Tellico Plains; and that the complainant made the shipments upon which it seeks reparation, paid and bore the charges herein found unreasonable, has been damaged, and is entitled to reparation based on the difference between the amount it paid and the amount it would have paid had the rate of 60 cents per cord from Murphy to Andrews been applicable.

The complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which should be submitted to the defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

So far as the applications of defendants for relief from the long-and-short-haul rule of the fourth section are concerned, no justification for the alleged departures was submitted. The applications, in so far as they are involved, will be denied.

No. 9807.  
NATIONAL WOOL GROWERS' ASSOCIATION  
v.  
BULLFROG-GOLDFIELD RAILROAD COMPANY ET AL.

*Submitted December 10, 1917. Decided February 8, 1918.*

Upon a complaint which alleged violation by the defendants of sections 1 and 3 in that the rates maintained by them on cottonseed cake and cottonseed meal from points in the Imperial Valley, Cal., to points in Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, when the traffic moves through other states, exceed a certain scale, *Held:*

1. That no undue prejudice or disadvantage has been shown.
2. That the present rates, in some instances, are unreasonable.
3. And that a readjustment of these rates is necessary. Reasonable rates established.

*S. W. McClure and H. W. Prickett* for complainant.

*Dana T. Smith; Henry McAllister, jr.; George E. Tralles; H. A. Scandrett; J. O. Moran; Van Cott, Allison & Riter; and Elmer Westlake* for defendants.

REPORT OF THE COMMISSION.

DIVISION 1, COMMISSIONERS McCHORD, MEYER, AND AITCHISON.

This proceeding brings in question the propriety of present rates on cottonseed cake and cottonseed meal in carloads, minimum 40,000 pounds, from points of origin in what is known as the Imperial Valley, Cal., to destinations on the lines of the defendants in Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, when the traffic moves through other states. The Imperial Valley is in southern California near the Mexican border, and is served by a branch line of the Southern Pacific Company.

Members of complainant unincorporated association have ranches in the states named and feed sheep upon the public lands. During the open seasons of the year sheep find their own food, but in winter it is necessary to provide feed for them. Some of the ranges are many miles from a railroad station and the sheep growers therefore require a feed which can be carried long distances by pack or wagon and which, when placed before the animals, will not be scattered or wasted by them. Crushed cotton seed is a highly concentrated food, contains a large percentage of flesh building elements, and, in the cake form, is not wasted by sheep. In recent years complainant's

members have been feeding sheep with cake produced in Texas, Oklahoma, and the Imperial Valley; apparently they have a preference for California cake, although that state does not produce enough to supply their needs.

A readjustment of the rates named is necessary. Certain defendants pointed out particular instances of malalignment, and, since the hearing, have reduced some of the rates. The complainant also has modified the basis of its demands since the hearing and, in its brief, has materially increased the amounts of the specific rates now asked for over those claimed in the complaint.

The complaint alleged that because the carriers maintained, from points in Oklahoma to destinations in some of the states hereinbefore named, rates on cottonseed cake and meal upon a lower basis than from points in the Imperial Valley to the same destinations that, therefore, the rates from points in the Imperial Valley to these destinations were unreasonable, in violation of section 1, and unduly prejudicial in violation of section 3. The basis of the rates from Oklahoma points is to be found in *Oklahoma Cottonseed Crushers' Assn. v. M., K. & T. Ry. Co.*, 39 I. C. C., 497, and complainant asked, at first, for a mileage scale of rates 10 per cent higher than the scale set forth in that report. That basis, however, was modified as set forth in *Oklahoma Cottonseed Crushers' Assn. v. Ry. Co.*, 42 I. C. C., 571. To this modification complainant association through its recognized representative assented.

We need not pause long to consider the different conditions surrounding transportation from Oklahoma points northward and westward into and through the intermountain territory from those which apply to transportation from points in the Imperial Valley northward and eastward into the same general district. Mileage scales set forth in the Oklahoma proceedings are not to be transposed from territory east of the Rockies and made applicable from southern California through the deserts, even if they be increased by 10 per cent, or more, as suggested by complainant. Rates per ton per mile, which may be compensatory in one section of the country and under given conditions, are not necessarily compensatory for transportation of similar commodities in other sections of the country by other carriers and under different conditions. Texas, Oklahoma, Arkansas, and Louisiana are cotton states. California produces cotton in the Imperial Valley, and little elsewhere. At the present time it is not to be ranked in cotton products either with the states named or with the southeastern states. A great volume of tonnage is not to be expected from that district. Defendants criticize complainant's scheme of rate making as ignoring elements of service and difficulties of transportation in the far west, and they say that if costs of operation

east and west of the Rocky Mountains be considered, complainant should have increased the scale not by 10 but by from 50 to 100 per cent. The merits of these contentions need no discussion, for the scale used by complainant is clearly inapplicable; that scale was established to apply to points "in Kansas, Missouri, Iowa, Nebraska, Minnesota, North Dakota, South Dakota, Montana, Wyoming, and to Colorado common points and points in Colorado east thereof." Of these Montana and Wyoming are the only states here involved; for the complaint, while it asks for rates to points in Colorado, asks only for rates to points in the western part of that state; it does not ask for rates to "Colorado common points and to points in Colorado east thereof." Complainant is not subjected to undue prejudice and the defendants do not violate section 3, as alleged.

Complainant's proposal, that rates from points in the Imperial Valley be made substantially upon the basis of certain low ton-mile revenues by way of short lines, also disregards the limitation of our power over through routes as defined in section 15. This traffic originates on a branch line of the Southern Pacific Company; to many destinations routes which embrace substantially the entire length of its railroad from the Imperial Valley to Ogden are not unreasonably long as compared with routes formed by shorter lines, total distances considered. By all routes this traffic must move through deserts and over mountains where local business is exceedingly thin.

To all points named in this complaint, which are not beyond Salt Lake City, the movement for substantial distances is by lines over which traffic to Salt Lake City must also move. This is true even of points in California and Oregon, for to such points the gateways are Sacramento, Cal., Reno and Fernley, Nev., and the hauls toward Salt Lake City are 694, 848, and 881 miles, respectively. And, speaking in terms of transportation rather than of geography, it may be stated that to all points here involved the movement is substantially toward, to, or through Salt Lake City. To points of destination on the Oregon Short Line, the Union Pacific, the Great Northern, the Northern Pacific, and the Chicago, Milwaukee & St. Paul, or on their short-line connections, the route in all cases is through Salt Lake City, or Ogden, and the rates are based upon the rate to Salt Lake City, or Ogden. It follows, therefore, that the main gateways are Salt Lake City and Ogden and that the first rates to be determined are the rates to these points.

It is true that if Ogden and Salt Lake City be considered only as destinations the routes giving the Southern Pacific a line haul might be regarded as unreasonably long compared with the route via Colton and the Los Angeles & Salt Lake Railroad. These cities, however, are more properly to be regarded as the points toward

which, or the gateways through which, the greater part of this traffic moves than as its destination. For the reasons stated, therefore, we shall look toward Ogden and Salt Lake City as the gateways of this traffic, the rates to which must dominate the rates to all other points.

The points of origin named in the complaint are Calexico, Heber, El Centro, Imperial, and Brawley. These are served by a branch of the Southern Pacific which extends southward from Niland, Cal., into Mexico; the distances from Niland, in miles, being as follows: Brawley, 16; Imperial, 28; El Centro, 31; and Calexico, 40. From these points to Colton and Los Angeles the average of the local rates is about 17 cents; from Calexico to Colton, the point through which all this traffic moves, the distance is 166 miles; from Calexico to Los Angeles, through which much of this traffic also moves, the distance is 222 miles. The rate on cottonseed cake and meal from Los Angeles to Salt Lake City, Utah, over the Salt Lake route, distance 784 miles, is 40 cents; and the present rate from points in the Imperial Valley to Salt Lake City is 57 cents, short-line distance 885 miles. Two other routes, however, are available, one via the Southern Pacific from Imperial Valley by way of Sacramento, Cal., Reno, Nev., and Ogden, Utah, 1,387 miles, and thence by the Oregon Short Line to Salt Lake City, 1,424 miles in all; the other via the Southern Pacific to Sacramento, and Western Pacific thence to Salt Lake City, 1,482 miles. A glance at the railroad map shows another route via the Southern Pacific—that is, from Imperial Valley points through Los Angeles, Mojave, Owenyo, Tonopah Junction, Mina, and Hazen to Ogden—a distance of about 1,237 miles. This route is apparent only, for while rates to some points are made with reference to it as a possibility, no carload traffic moves through this way because the line is narrow gauge from Owenyo to Tonopah Junction. All routes are through mountains and deserts where little local traffic is obtained. The record is full of statements showing the great expense of operation over these routes, the dangerous nature and expensive upkeep of snowsheds; the liabilities to washouts due to sudden melting of mountain snows; the extra cost of maintenance and operation through the desert and in the mountains; and the sparsity of local traffic.

Complainant's theory of rate making results in a suggestion that the rate from Imperial Valley points to Salt Lake City be made 37.5 cents per 100 pounds. This rate would yield ton-mile earnings of a little less than 8.5 mills and car-mile earnings a little short of 17 cents via the short route through a desert country. We think that the rate on this commodity from Imperial Valley points to Salt Lake City should not exceed 50 cents per 100 pounds by any route; this will yield, by way of Colton and the Salt Lake route, earnings

of 11.29 mills per ton-mile, or 22.58 cents per car-mile; via the Southern Pacific all the way to Ogden and the Oregon Short Line to Salt Lake City a little more than 7 mills per ton-mile and a little over 14 cents per car-mile; by way of the Southern Pacific to Sacramento and thence by the Western Pacific about 6.74 mills per ton-mile and about 13.5 cents per car-mile. Car-mile earnings are based upon the minimum carload weight of 40,000 pounds.

This rate of 50 cents from points in the Imperial Valley to Salt Lake City appears to be fair to the carriers and reasonable to the shippers in view of all the circumstances here disclosed; we have examined the rate to Salt Lake City with great care because, as stated above, the rates toward, to, and through that city appear to us to dominate the whole rate adjustment. Using that rate as the keystone of our rate structure, we find:

That by way of the Los Angeles & Salt Lake Railroad, herein called the Salt Lake route, rates from points in the Imperial Valley to Las Vegas, Nev., should not exceed 40 cents; to main and branch line points on that route between Las Vegas and Beryl, Utah, rates should be graded not to exceed 45 cents at Beryl; to points on main and branch lines between Beryl and Oasis the rate should not exceed 47 cents; and the rates to main and branch line points north and east of Oasis as far as Salt Lake City should be graded not exceeding 50 cents at Salt Lake City.

The Southern Pacific does not reach Salt Lake City by its own rails. Ogden is 37 miles north of Salt Lake City, and the rates to Ogden, Salt Lake City, and points between should be the same, 50 cents. By way of the Southern Pacific lines, rates from Imperial Valley stations should not exceed 42.5 cents to main and branch line points in Nevada between Reno, Wabuska, Mina, Fallon, and Lovelock, inclusive; they should be graded between Lovelock and Winnemucca; they should not exceed 47.5 cents from Winnemucca to Tecoma, inclusive; the above rates are substantially in effect at the present time; rates to points east of Tecoma should not exceed 50 cents on the direct line to Ogden, they should not exceed 50 cents from Tecoma to Promontory, Utah, via the old main line. Between Promontory, Brigham, and Ogden the rates should not exceed rates contemporaneously in effect at near-by stations on the Oregon Short Line. Routing to stations east and west of Promontory must be so made as to avoid departures from the provisions of the fourth section of the act.

At the time the complaint was made the rate to Klamath Falls, Oreg., was 79 cents per 100 pounds. At the hearing the Southern Pacific admitted the impropriety of that rate and offered to establish a rate of 60 cents per 100 pounds from Imperial Valley points to

Klamath Falls. This is a one-line haul, but it is through difficult country, Klamath Falls being near the end of the branch extending northward from Weed, Cal. We shall expect the Southern Pacific to publish a rate not exceeding 60 cents.

At Reno the Southern Pacific intersects the Nevada-California-Oregon Railway, and rates to points on this line in California and Oregon are attacked. This is a narrow-gauge road and has comparatively little traffic. It extends from Lakeview, Oreg., southwardly to Reno. The present rates are 55 cents to Amedee, Cal., and 67.5 cents to Lakeview. Amedee is 77 miles and Lakeview 236 miles beyond Reno. The record discloses no reason why these rates should be reduced.

What is known as the Fernley-Lassen branch of the Southern Pacific extends northward and westward from Fernley, Nev., to Westwood, Cal, a distance of 135 miles. It runs through a district of mountain timber. The present rates are 64 cents to Westwood, 61.5 cents to Susanville, and 57.5 cents to Wendel, all in the state of California. We think rates on this line should not exceed 55 cents to Westwood, 52 cents to Susanville, and 48 cents to Wendel. Rates to other points on this line should be adjusted to correspond with those named; to no point should rates now in effect be increased.

The Nevada Northern Railway is a short line which extends southward from Cobre on the Southern Pacific, through Shafter on the Western Pacific, to Ely, 140 miles. The rate to Ely in effect at the time this complaint was brought was 87.5 cents, based upon the combination of locals. Rates to points on the Nevada Northern Railway should not exceed 67.5 cents, and should be graded down toward Shafter and Cobre.

Rates to stations on the line of the Western Pacific should not exceed 47.5 cents at all points on that line in Nevada, Calneva to Shafter, inclusive; they should not exceed 50 cents to points in Nevada and Utah, between Shafter and Salt Lake City.

The rates set forth above to points on the Southern Pacific would yield a revenue of 10 mills per ton-mile at Reno for a distance of 848 miles; and a revenue of 7.6 mills per ton-mile at Cobre, for a distance of 1,250 miles. The rate suggested above for the Western Pacific would give a revenue of about 10 mills per ton-mile on traffic to Calneva, 932 miles; and earnings of 7.19 mills per ton-mile on traffic to Shafter, 1,320 miles.

The record is not sufficiently clear to enable us to establish specific rates to all points on the lines of the Las Vegas & Tonopah, the Bullfrog-Goldfield, and Tonopah & Goldfield railroads. These lines connect the Salt Lake route at Las Vegas with the Southern Pacific lines at Mina. The highest present rates to points on these lines are to

Goldfield, 75.75 cents. Through rates from points in the Imperial Valley to points on these lines should be realigned, holding 70 cents as a maximum at any point whether the traffic moves via the Southern Pacific through Mina, or via the Salt Lake route through Las Vegas. In readjusting rates to points on these lines, carriers will not have permission to increase rates above those now in effect.

Complainants do not ask for rates to points in Colorado east of Grand Junction on the line of the Denver & Rio Grande. Grand Junction is 292 miles beyond Salt Lake City on a line which traverses a mountainous and difficult country. Rates to Grand Junction and Mack, Colo., should not exceed 65 cents; they should be graded down toward Salt Lake City, not exceeding 60 cents at Soldier Summit, Utah. To some points in Utah on main and branch lines, the rates now in effect should be reduced; for example, the rate to Heber should not exceed 60 cents, and the rate to Park City should not exceed 56 cents.

The Uintah Railroad extends northward from Mack, Colo., through a most difficult country, described in *American Asphalt Association v. Uintah Railway Co.*, 13 I. C. C., 196, to Rainbow and Watson, in the state of Utah. This line is entitled to its full local of 40 cents per 100 pounds, and the through rate from points in Imperial Valley to points served by it should not exceed \$1.05 per 100 pounds.

Testimony in behalf of the lines forming the Union Pacific system concerning rates to points beyond Salt Lake City and Ogden was of a helpful and constructive character, and obviously was offered as an aid to the Commission in constructing rates to points in Utah, Wyoming, Idaho, Oregon, and Montana. The suggestion was made that the Oregon Short Line should be allowed to construct rates beyond Salt Lake City by means of certain differentials; that is, a differential of 5 cents over Salt Lake City at Pocatello, Idaho, and differentials of 5 cents over Pocatello at both Butte, Mont., and Weiser, Idaho. This adjustment is substantially that which obtains at the present time, and we see no reason to disturb it. The Oregon Short Line, however, claimed that it should be allowed to charge upon a much higher basis to certain branch-line points. While the differentials suggested are obviously fair, we think that to some points at least, on branch lines rates should be slightly reduced. With a rate of 50 cents applying to Salt Lake City, Ogden, and points between, we think that rates to Malad, Preston, and McCammon, Idaho, should not exceed 54 cents; that the rates to Pocatello, Blackfoot, Idaho Falls, and Ashton, Idaho, should not exceed 55, 56, 57, and 58 cents, respectively; and that the rates to Mackay and Victor, Idaho, Yellowstone, Armstead, and Butte, Mont., should not exceed 60 cents. Rates to main-line points, Pocatello to Weiser, and to branch-line

points east of Caldwell, Idaho, should not exceed 60 cents, which means that rates to Ketchum, Buhl, Twin Falls, Hill City, and Eden should also be 60 cents; rates to Murphy, Emmett, and New Plymouth, Idaho, and to Brogan and Park, Oreg., should not exceed 65 cents; rates to Lakeport, Idaho, and points intermediate to Lakeport should not exceed 70 cents; rates to Homedale, Idaho, should not exceed 69 cents; rates on the line in Oregon should not exceed 63 cents to Vale, 70 cents at Jonesboro, and 75 cents at Crane; the rates to Huntington and Blakes Junction should not exceed 61 cents and rates on the Homestead line should not exceed 70 cents.

The Pacific & Idaho Northern is an independent line 90 miles long, which extends from Weiser on the Oregon Short Line northward to New Meadows. Rates to Cambridge and New Meadows should not exceed 76 cents and 82 cents, respectively. These rates will allow this line its locals beyond Weiser.

The Gilmore & Pittsburgh Railroad is an independent road connecting with the Oregon Short Line at Armstead, Mont., whence it extends through the mountains across the Idaho state line west and south to Gilmore, about 75 miles; and, by another branch toward the northwest, to Salmon, about 100 miles. Nothing in the record indicates that this railroad is not entitled to its full locals beyond Armstead, and we find that the rates to points on this line in Idaho should not exceed the following: To Leadore, 72 cents; to Gilmore, 78 cents; to Salmon, 75 cents.

The Oregon Short Line has rails from McCammon to Granger, Wyo., where it connects with the line of the Union Pacific. The suggestion made in its behalf was that a differential of 5 cents over the rate to Pocatello be applied to points on the line from McCammon to Granger. Ogden, McCammon, and Granger are at the apices of an irregular triangle, two legs of which are formed by the Oregon Short Line and one by the Union Pacific, and the suggestion made, while fair if the interests of the Oregon Short Line alone be considered, would result in a differential of 10 cents at Granger over the rates to Ogden. This we consider too high. We think the rate to McCammon should not exceed 54 cents, and that rates to points on the Oregon Short Line between McCammon and Granger should not exceed 57 cents.

To points on the main and branch lines of the Union Pacific between Ogden and Laramie, Wyo., the rates should be graded substantially as follows: To Echo and Park City, 53 cents and 56 cents, respectively; to points in Wyoming as follows: Knight, 55 cents; Granger, 57 cents; Rawlins, 63 cents; and Laramie, 68 cents.

The record is not helpful with respect to a reasonable basis for the construction of rates over the lines of the Great Northern, the North-

ern Pacific, and the Chicago, Milwaukee & St. Paul railroads in Montana. At the present time the rates from Imperial Valley points to points in Montana are based substantially upon the rate to Butte plus the locals of the respective lines beyond. There is nothing to indicate that these locals are unjust and unreasonable, but complainant asks that the rate of progression be made 1.5 cents for each 50 miles additional haul as proposed in *Oklahoma Cottonseed Crushers' Assn. v. Ry. Co.*, 42 I. C. C., 571. The rate to Butte has been reduced from 67 cents to 60 cents, and we shall expect the carriers named to reduce rates to all points in Montana by not less than 7 cents per 100 pounds.

The record shows that the value of cottonseed cake has ranged from \$20 to \$42 per ton at point of origin within the past three years, the high price prevailing during the past year. There is no immediate prospect of a decrease in its value or price. The total annual production of cottonseed cake and meal in the Imperial Valley is about 8,000 tons, or 400 carloads of 40,000 pounds. Last year more cottonseed cake was consumed in Idaho alone than was produced in California.

**McCHORD, Commissioner:**

The foregoing proposed report of the examiner was filed in the record and served upon the parties November 19, 1917, under rules of procedure which provide for the filing of exceptions within 20 days thereafter. No exceptions have been filed. On behalf of defendants a letter has been filed accepting the rates suggested.

Upon consideration of the record we approve and adopt the proposed report as the report of the Commission. No order will be entered at the present time, but the defendants will be expected to make the rates named in the report effective on or before April 1, 1918. Tariffs naming such rates may be filed upon five days' notice to the Commission and to the public.

No. 9550.

ALABAMA PACKING COMPANY ET AL.

v.

ALABAMA GREAT SOUTHERN RAILROAD COMPANY  
ET AL.

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PORTIONS OF FOURTH SECTION APPLICATIONS  
Nos. 542, 601, 1548, AND 1952.

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*Submitted January 23, 1918. Decided February 8, 1918.*

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1. Defendants' rates for the transportation of hogs and cattle in carloads from New Orleans, La., to Birmingham, Ala., found unreasonable. Reparation awarded.
2. Authority to continue rates on cattle, hogs, and sheep in carloads from Milneberg, La., to Birmingham, which are lower than the rates contemporaneously maintained on like traffic from New Orleans and other intermediate points, denied.

*John D. Petterson, jr.*, for complainants.

*Charles D. Drayton* for Alabama Great Southern Railroad Company, Southern Railway Company, and New Orleans & Northeastern Railroad Company.

*William A. Northcutt* for Louisville & Nashville Railroad Company.

*J. H. Doughty* for Birmingham Belt Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 1, COMMISSIONERS McCHORD, MEYER, AND ATTCHISON.

Complainants are the Alabama Packing Company and the Birmingham Packing Company, corporations engaged in the packing-house business at Birmingham, Ala. By complaint, filed February 28, 1917, they allege that defendants' rates for the transportation of cattle, hogs, and sheep in carloads from New Orleans, La., to Birmingham, are unreasonable, unduly prejudicial, and in violation of the provisions of the fourth section. At the hearing the allegation with respect to the rates on sheep was abandoned. Reparation is asked on all shipments of cattle and hogs which have moved since March 1, 1915, and the establishment of a reasonable rate for the future.

Those portions of Fourth Section Applications Nos. 542, 601, 1548, and 1952, wherein the carriers named as parties thereto ask authority to continue to charge for the transportation of cattle, hogs, and sheep in carloads from Milneberg, La., to Birmingham, rates which are lower than the rates contemporaneously maintained on like traffic from New Orleans and other intermediate points, were heard with the complaint.

The rate on cattle and hogs from New Orleans to Birmingham is \$77 per car 40 feet or less in length, subject to certain percentage increases for cars of additional length. This rate, which has long been in effect, applies by way of the Louisville & Nashville Railroad all the way, 415 miles, and also by way of the New Orleans & Northeastern Railroad and the Alabama Great Southern Railroad, 355 miles. Since March 1, 1915, complainant, the Birmingham Packing Company, has made numerous carload shipments of cattle and hogs from New Orleans to Birmingham over the routes above shown, and it is in evidence that charges were collected thereon at the published tariff rates.

The record discloses that there are departures from both provisions of the fourth section under the present adjustment. The rate on cattle and hogs from New Orleans to Gentilly, La., a local station on the Louisville & Nashville 15 miles northeast of New Orleans and between New Orleans and Birmingham is \$5 per car, any length; the rate from Gentilly to Birmingham is \$56 per car, any length. From Milneberg, La., which is 9 miles north of New Orleans, the rate on cattle and hogs to Birmingham is \$56 per car. Traffic from Milneberg to Birmingham moves through New Orleans. From New Orleans to Cullman, Ala., a local station on the Louisville & Nashville, 54 miles north of Birmingham, the rate is \$64 per car. Other departures from the provisions of the fourth section are disclosed but it is not necessary for the purposes of this report that they be shown in detail. The rate situation here disclosed has obtained for several years.

In addition to pointing out the fourth section situation complainants show that the rate on cattle and hogs from Birmingham to New Orleans over both of the routes above shown is \$58 per car. The Louisville & Nashville maintains a rate of \$56 per car from certain Florida points on its line to Birmingham for distances ranging from 376 miles to 415 miles. Complainants have received shipments from some of these Florida points in the past, but there is no movement of live stock from Florida into Alabama at the present time because of certain quarantine restrictions. A proportional rate of \$60 per car, maintained by defendants from New Orleans to Birmingham

on shipments of cattle and hogs originating west of the Mississippi River, is emphasized by complainants. However, a proportional rate can not be taken as a fair measure of the reasonableness of a local rate.

Defendants insist that the rates in issue have been and are intrinsically reasonable, but concede that the present adjustment is unwarranted. It is stated that this and other recent proceedings relating to their rates on live stock brought the matter to their attention, and that they are now engaged in making a general revision of their rates on live stock throughout the southeast. Under this readjustment they propose to correct all departures from the provisions of the fourth section. It is proposed to reduce the present rate on cattle and hogs from New Orleans to Birmingham to \$68 per car. The rate to Birmingham from local stations in the vicinity of New Orleans and from New Orleans to local stations, such as Cullman, will be increased. It appears that with respect to the local stations there is no movement, and that increases in the rates from and to such points will be mere paper increases.

In support of their contention that the present rates have been and are reasonable, defendants show that the earnings per car on certain articles of dead freight of relatively low values moving from New Orleans to Birmingham are as high as the per car earnings on live stock under the rates in issue. They emphasize the special services required by carriers in connection with the movement of live stock which do not obtain in connection with the movement of dead freight. The Louisville & Nashville shows that for the year ended June 30, 1916, although live stock formed but 1.14 per cent of its total freight, loss and damage which it paid on live stock constituted 12.65 per cent of all the loss and damage claims which it paid during the same period. With respect to the rates from and to Gentilly, it is in evidence that there is no movement of live stock from or to that point.

Certain exhibits submitted by the parties have been considered, but need not be discussed in detail.

By way of the Louisville & Nashville the present rate of \$77 per car yields 18.5 cents per car-mile, and the proposed rate of \$68 will yield 16.4 cents per car-mile. By way of the route through Meridian the present rate yields 21.7 cents per car-mile, and the proposed rate will yield approximately 19 cents. In *Alabama Packing Co. v. L. & N. R. R. Co.*, 47 I. C. C., 524, we prescribed a rate of \$40 per car on cattle and hogs by way of the Louisville & Nashville from Nashville, Tenn., to Birmingham, 208 miles. This rate yields 19.2 cents per car-mile.

The proposed rate of \$68 per car appears to be in line with the rates which will apply between points in the southeast under the readjustment proposed by defendants.

The rate charged on the shipments which moved by way of the Louisville & Nashville Railroad was *prima facie* unreasonable in that it exceeded the combination of intermediate rates based on Gentilly and, in our opinion, defendants' evidence fails to rebut that presumption. We therefore find that the rate charged on the shipments that moved by way of the Louisville & Nashville Railroad was unreasonable in and to the extent that it exceeded and exceeds the sums of the intermediate local rates. With respect to the shipments that moved by way of the route through Meridian, we find that the rate charged thereon was, is, and for the future will be, unreasonable to the extent that it exceeded and may exceed the proposed rate of \$68 per car. We further find that complainant, the Birmingham Packing Company, made shipments as alleged, and paid and bore charges thereon at the rates herein found to have been unreasonable; that it has been damaged to the extent that the charges collected exceeded the charges that would have accrued at the rates herein found to have been reasonable over the respective routes; and that it is entitled to reparation, with interest. The Birmingham Packing Company should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

The fourth section applications heard will be denied to the extent that they are here involved. No order will be entered with respect to rates for the future, but the carriers will be expected to realign their rates in accordance with those proposed at the hearing. The rate on cattle and hogs from Birmingham to New Orleans appears not to fit the alignment proposed. Complainants have not shown that they have been damaged by reason of any undue prejudice which may obtain under the present adjustment, and any such prejudice which may at present prevail will be removed under the proposed adjustment. It is therefore unnecessary to make any finding with respect thereto.

*MEYER, Commissioner:*

With several minor exceptions, the foregoing is the proposed report of the examiner, which was filed in the record and served upon the parties on December 6, 1917, under rules of procedure providing for the filing of exceptions within 20 days thereafter. Neither party has filed exceptions. Upon consideration of the record we approve and adopt that report as the report of the Commission. An appropriate fourth section order will be entered.

No. 9558.  
**WEST VIRGINIA RAIL COMPANY**  
v.  
**CHESAPEAKE & OHIO RAILWAY COMPANY ET AL**

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*Submitted November 5, 1917. Decided February 9, 1918.*

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Rates for the interstate transportation of light section steel rails in carloads from Huntington, in the state of West Virginia, to points on the line of the Norfolk & Western Railway in West Virginia and Virginia, certain of which were prescribed by the Commission in *West Virginia Rail Co v. B. & O. R. R. Co.*, 26 I. C. C., 622, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

*W. P. Tingley* and *Willis H. Fowle* for complainant.

*R. Walton Moore* and *Frank W. Gwathmey* for Norfolk & Western Railway Company; *J. S. Patterson* for Chesapeake & Ohio Railway Company; and *Francis R. Cross* for Baltimore & Ohio Railroad Company.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

In *West Virginia Rail Co. v. B. & O. R. R. Co.*, 26 I. C. C., 622, decided April 14, 1913, traffic moving from points of origin in the state of West Virginia to destinations in the same state and passing in transit through the state of Kentucky was held to be subject to the act to regulate commerce, and we found rates for the transportation of steel rails in carloads from Huntington, in the state of West Virginia, to certain specified stations on the line of the Norfolk & Western Railway in that state and in the state of Virginia to be unreasonable to the extent of 20 cents per long ton and awarded reparation on that basis. Complainant was not satisfied with the result of that proceeding, or with the existing rates to all other stations on the lines of the Norfolk & Western Railway west of Salem, in the state of Virginia, and on March 3, 1917, filed the pending complaint. On April 28, 1917, the complaint was amended to pray reparation within the statutory period of limitations.

The complaint referred to the fact that the defendants initiating steel rails at Huntington had filed tariffs, to become effective March 15, 1917, proposing to increase the rates for the transportation of new iron and steel rails in carloads from Huntington to the

destination territory commonly called the Norfolk & Western coal fields on the line of the delivering defendant. The operation of these tariffs was suspended in Investigation and Suspension Docket No. 1043, Rails from Huntington, W. Va. The subject matter being identical, the formal complaint and the suspension case were consolidated in hearing. However, at the time of the hearing, the respondents had an application on file with the Commission to cancel the proposed increased rates in view of the pendency of No. 57 (ex parte), later reported as *The Fifteen Per Cent Case*, 45 I. C. C., 803, and since the hearing they have availed themselves of the permission granted on May 9, 1917, and canceled the proposed increased rates. It may be explained, nevertheless, that the suspended tariffs proposed both increases and decreases in rates, the purpose being to re-align them to numerous destination points, to add new stations, and to eliminate patent errors and inconsistencies.

Rates charged for the transportation of new iron and steel rails and iron and steel railroad crossties, in carloads, from Huntington to stations on the main line, branches, and branches of branches of the Norfolk & Western Railway west of but not including Salem, in the state of Virginia, which is immediately west of Roanoke, in the same state, to and including Matewan, in the state of West Virginia, are alleged to be unreasonable, unjustly discriminatory, and unduly prejudicial. It is stated in the complaint that the rates under attack are constructed on an arbitrary basis and are not equitably aligned as compared to rates for the transportation of the same commodities to the same destination territory from Pittsburgh and Johnstown, in the state of Pennsylvania; Buffalo, in the state of New York; Cumberland, in the state of Maryland, and Lorain and Newark, in the state of Ohio. The rates in issue are also alleged to be unreasonable in comparison with rates on the same commodity from Huntington to points on the lines of the Baltimore & Ohio Railroad, Chesapeake & Ohio Railway, and the Virginian Railway, where transportation conditions are said to be similar to those which obtain from Huntington to the destination points on the line of the Norfolk & Western Railway.

There is no movement of iron and steel railroad crossties from Huntington to the destination territory, and as the rates applicable to their transportation are the same as those applicable to the transportation of new iron and steel rails, no further consideration will be given to the allegation of the complaint in respect of them.

Rates herein are stated in amounts per long ton; the commodity, the rates on which are attacked, will be referred to as rails; the destination territory will be called the coal fields and the Norfolk & West-

ern Railway, as it bore the brunt of the defense, will be designated as the defendant.

The complaining corporation is engaged at Huntington in the manufacture and sale of light section steel rails, which are extensively used for tram tracks at coal mines and, to some extent, in the construction of the tracks of logging roads. The rails made by complainant are rerolled from scrap steel, i. e., worn standard steel rails; from new steel rails, which have been rejected because containing flaws or not analyzing to the standard requirement for such rails, and from short pieces of steel rails, which are known as crop ends. However, the rates for the transportation of steel rails are the same, regardless of the difference in the weight per yard of the rail. Rails obviously load heavily, subject, however, to the carrying capacity of the bridges over which they are transported; the average carload weight for three months in the year of 1916 was 30 long tons. As rails are practically indestructible, claims for loss and damage are almost nonexistent. When standard steel rails were selling for \$28 a ton in lots of 500 tons, light section steel rails, in carload lots, were purchasable for from \$21 to \$22 a ton f. o. b. shipping point. At the time of the hearing in the early part of the year 1917 the price at Pittsburgh of 40-pound rails was from \$58 to \$60 a ton. Complainant manufactures sections of rails weighing from 12 to 45 pounds per yard.

Complainant's principal competition, both in the purchase of the raw material and the sale of the finished product, is from mills located at Cumberland and Newark, and also at Williamsport, in the state of Pennsylvania. It formerly, but not in recent years, had competition from Pittsburgh and Johnstown. Rails are sold on the Pittsburgh basis; that is, the Pittsburgh price, plus the transportation charges thence; but, in order to secure business, complainant has been compelled to shrink that basis.

In the transportation of rails from Huntington to the coal fields the movement is in official classification territory. Under the classification obtaining there, articles of manufactured iron are rated fourth, fifth, and sixth class; fifth class being the predominating classification rating on articles in the iron list. Rails are rated sixth class, but in official classification territory the rates are generally below that basis. The rates here attacked are commodity rates, less than the sixth-class rates from Huntington to the coal fields. The Baltimore & Ohio and the Chesapeake & Ohio roads, which serve Huntington, have junctions with the defendant at Kenova, in the state of West Virginia, a distance of 8 miles from Huntington. Although the sixth-class rate from Huntington to Kenova is 3.2 cents

per 100 pounds, equivalent to 64 cents per ton, the joint commodity rates to the coal fields have as a component an arbitrary of 45 cents from Huntington to Kenova, plus various factors of the defendant beyond.

The following statement shows distances and present rates from Huntington and sixth-class rates from Kenova, in effect prior to the increases permitted in *The Five Per Cent Case*, 31 I. C. C., 351, to typical points of destination in the coal fields:

It should be observed that in some instances, notably to Pocahontas, Orkney, and Faraday, typical of many others, the through rates are the aggregates of the arbitrary from Huntington to Kenova plus the former full sixth-class locals of the defendant. To other stations, of which those from Matewan to and including Ingleside are examples, the through rates are made on the basis of the arbitrary to Kenova, plus the full locals thence to the destinations, less 20 cents, the basis prescribed by the Commission in *West Virginia Rail Co. v. B. & O. R. R. Co.*, *supra*, to certain specified stations. The defendant concedes that if the spirit of our decision in *West Virginia Rail Co. v. B. & O. R. R. Co.*, *supra*, had been followed, the rates to Pocahontas, Orkney, and Faraday would have been reduced 20 cents. To the other stations named the basis is the aggregate of the arbitrary to Kenova and the full local thence. This basis is subject to the condition that the factor of the defendant from Kenova to the destination points is its proportion from Circleville, Ohio, where it has a junction with a line of the Pennsylvania Company, of the joint rates on steel rails from Pittsburgh to the same destinations, shall be the maximum proportion accruing to the defendant. The application of this basis would increase the rates to Pearisburg, Curve,

and Eggleston from \$3.45 to \$3.65, and to Kimballton and Paint Bank from \$3 to \$3.65. The rate to Pounding Mill was prescribed by the Commission in the former case. However, under *The Five Per Cent Case* the arbitrary from Huntington to Kenova has been increased from 45 to 47 cents, and that increase has not been incorporated in the through rates from Huntington to the coal fields: the present rates from Kenova to the coal fields reflect the 5 per cent increase, and the defendant's proportion from Circleville of the rate on traffic originating at Pittsburgh has been increased from \$3.19 to \$3.29 consequent upon *The Five Per Cent Case, supra*, and that adjustment has not been compensated in through rates from Huntington to the coal fields. Since the previous decision was rendered the defendant has constructed what it terms the Cedar Bluff cut-off, extending from Iaeger, in the state of West Virginia, on the Pocahontas division of the defendant, to Cedar Bluff, in the state of Virginia, on the Clinch Valley division of the defendant, materially shortening the distance from Huntington to the stations on the Clinch Valley division. Briefly, the defendant, reciting the above and referring to clerical errors in the tariffs, states that the existing rates are "honeycombed with inaccuracies and inconsistencies," which it proposed to eliminate in the tariffs which were suspended and have since been canceled. We thus have only the present rates before us.

The line of the defendant from Kenova to the coal fields was found in the former case to be expensive to maintain and to operate, and, furthermore, it was shown that many of the points of destination are on branches. A similar finding in *Bluefields Shippers Assn. v. N. & W. Ry. Co.*, 22 I. C. C., 519, in respect of the main line of the defendant from Kenova to Roanoke, was qualified by the statement that this section was part of the system of defendant, just as the mountainous sections of the Chesapeake & Ohio, the Baltimore & Ohio, and the Pennsylvania are parts of those systems, and it was said:

It is much more reasonable to compare the rates upon the main line with those upon the Chesapeake & Ohio and the Baltimore & Ohio roads operating largely in competition with the Norfolk & Western and under very similar conditions.

And complainant compares the rates on rails from Huntington to the coal fields with the rates on rails from Huntington, Pittsburgh, and Cumberland to points in the states of West Virginia, Maryland, and Pennsylvania on the lines of the Chesapeake & Ohio and the Baltimore & Ohio. The nearest point to Huntington on the line of the defendant is Matewan, to which the rate of \$2.85 earns for 115 miles 24.80 mills per gross ton-mile. The farthest distant

point from Huntington is Abingdon, in the state of Virginia, 368 miles, to which the rate of \$3.65 earns 9.92 mills per gross ton-mile. To Craneco, in the state of West Virginia, on the line of the Chesapeake & Ohio, a distance of 99 miles from Huntington, the rate of \$1.32 yields 13.33 mills per gross ton-mile, while the rate to Winterburn, on the same line, distant 286 miles from Huntington, the rate of \$1.58 affords but 5.52 mills per gross ton-mile. On the line of the Baltimore & Ohio, Ravenswood, in the state of West Virginia, distant 86 miles from Huntington, has a rate of \$1.58, which yields 18.37 mills per gross ton-mile, while the rate of \$2.20 to Terra Alta, 263 miles from Huntington, yields but 8.37 mills. From Pittsburgh and Cumberland to stations on the line of the Chesapeake & Ohio, in the state of West Virginia, for distances ranging from 258 to 426 miles there is a blanket rate of \$2.96, yielding per gross ton-mile earnings of 11.47 and 6.95 mills, respectively, for the extremes stated. From Pittsburgh and Cumberland to stations on the line of the Baltimore & Ohio in Pennsylvania, Maryland, and West Virginia for distances from 99 to 350 miles, the rates trend upward from \$1.05 to \$2.94, yielding ton-mile earnings of from 10.60 to 8.40 mills for the minimum and maximum distances.

Rates to the coal fields from other producing points, such as Buffalo, Pittsburgh, Lorain and Newark, and Cumberland are grouped. The key rate is that from Lorain, \$4.36, which yields to Matewan, 10.63 mills, and to Glenvar, in the state of Virginia, 7.25 mills per ton-mile for 410 and 601 miles, respectively. This group rate from Lorain also applies from Newark and from Pittsburgh. Buffalo takes 30 cents higher than Pittsburgh. Cumberland takes 20 cents under Buffalo or 10 cents over Pittsburgh. The rate on steel rails from Buffalo to New York is \$2.76, and the rates from Pittsburgh to New York are the same as from Buffalo to New York. The rate from Pittsburgh to the Virginia cities is 20 cents higher, or \$2.96, and from Lorain to the Virginia cities, 40 cents higher than Pittsburgh, or \$3.36. The basis from Lorain to the coal fields is \$1 higher than from Lorain to the Virginia cities. The rate from Huntington to the Virginia cities is \$2.94. If the Lorain basis was applied from Huntington, its rate to the coal fields would be \$3.94, except where the full combination on Kenova produced a lower amount. Therefore the defendant argues that if the alleged discrimination and prejudice is to be removed by applying from Huntington the Lorain basis, the Huntington rates must be increased. Under the method of constructing the rates from Huntington to the coal fields the maximum rate thence is \$3.65.

In addition to the above comparisons, complainant cites rates from Huntington, Pittsburgh, and Cumberland to stations in West

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Virginia on the line of the Virginian Railway. To a large number of stations the rate is \$1.48 for distances from 90 to 165 miles. The group rate of \$3.36 is applied from Pittsburgh and Cumberland to stations on the Virginian Railway distant from 316 to 364 miles. The Coal & Coke Railway, which operates eastward from Charleston, in the state of West Virginia, has a group rate of \$1.84 applying from Huntington to all stations on its line from River to Elkins, in the state of West Virginia, distant, respectively, 53 and 226 miles. From Pittsburgh and Cumberland to stations on the Coal & Coke Railway, distant from 120 to 317 miles, the rate is \$2.20. The Chesapeake & Ohio and the Baltimore & Ohio, in connection with the Kanawha & Michigan Railway, provide a group rate of \$1.36 to stations in West Virginia on the Kanawha & Michigan, for distances ranging from 57 to 100 miles, and from Cumberland there is a rate of \$1.90 applying to four stations in West Virginia on the Morgantown & Kingwood Railway, for distances of from 93 to 119 miles. The rates from Huntington to Hendricks and May, in the state of West Virginia, stations on the Western Maryland Railway, are \$2.58 for distances of 352 and 291 miles, respectively, while from Pittsburgh the rates to stations in West Virginia on this line range from \$2.46 for 183 miles to \$2.96 for 268 miles. The rates of defendant westward from Huntington to Waverly, Chillicothe, Circleville, and Columbus, in the state of Ohio, are \$1.58, the ton-mile earnings from which trend downward from 20.79 to 10.75 mills per gross ton per mile. On an average load of 30 tons of rails the earnings per car-mile derived from the \$2.85 rate on rails from Huntington to Matewan are 74.4 cents. Complainant compares these earnings with those yielded from the transportation of brick, lumber, flour, and window glass from Huntington to same point. These earnings are, respectively, in cents, 37.1, 37.4, 59.3, and 82.2.

The following statement shows statistical data for the year ended June 30, 1914, for certain of the carriers, the rates of which have been compared with those from Huntington now under attack:

Road.	Average earnings per ton.	Average distance hauled.	Earnings per mile of road.	Operating ratio.
	<i>Mills.</i>	<i>Miles.</i>		
Norfolk & Western.....	4.15	269	\$7,139	67.33
Chesapeake & Ohio.....	4.09	364	4,705	69.92
Baltimore & Ohio.....	5.64	193	5,676	72.92
Pennsylvania.....	5.78	164	10,999	74.99
Virginian.....	3.42	355	5,580	55.73
Kanawha & Michigan.....	4.02	125	.....	71.37
Coal & Coke.....	6.29	73	.....	.....
Morgantown & Kingwood.....	9.74	26	.....	.....
Western Maryland.....	5.54	113	.....	94.98

In respect of transportation from Huntington to Kenova, it is complainant's contention that it should be compensated for by a switching charge of 30 cents per gross ton, with a maximum of \$10 per car. Traffic between Huntington and Kenova is not of large volume, is not handled by the regular local crew, but the service is a special one. The rate on scrap steel, which is said in some instances to take higher rates than rails, from Kenova to Huntington is 40 cents. The Baltimore & Ohio and the Chesapeake & Ohio have a switching charge of \$5.25 per car on lumber from Kenova to Huntington. As to this latter charge the Chesapeake & Ohio asserts that it found it in effect by way of the Baltimore & Ohio. The latter road contends that a switching charge should not apply to a transportation service, but usually should be confined to a reciprocal switching service, a condition which does not obtain at Huntington. It is said the charge, a relic of past practices, has been overlooked, but it will be investigated. Both the initial carriers contend that a switching charge should not be established to apply solely as their proportions of the joint through rates from Huntington to the coal fields. The attack here is on the through rates, and it is no present concern of ours how they are divided between the participating carriers.

Defendant shows that prior to the year 1907, when the complainant was organized, the sixth-class rates, higher than the present commodity rates, were in effect. For example, the rate to Matewan, now \$2.85, was \$3.20, and the rate to Abingdon, now \$3.65, for a distance of 368 miles, was \$4.20. It is also stated that as the rates from other producing points reflect the 5 per cent increase and the rates from Huntington do not, the relation of rates has thereby been changed, since the former decision, to the advantage of Huntington.

Defendant's three principal rate comparisons are with the sixth-class rates on the same commodity from Ironton, in the state of Ohio, an iron and steel producing point 12 miles north of Kenova, which, however, does not produce light steel rails; the class rates applicable for equidistant hauls within the state of Virginia and those applicable for equidistant hauls within the state of North Carolina for one and two line hauls. The class rates from Ironton, reflecting the 5 per cent increase, are, to Matewan, \$2.94, and to Abingdon, \$4.46, exceeding the Huntington rates to the same points by 9 and 81 cents, respectively. No steel rails are produced in Virginia or North Carolina, and those states are in southern classification territory. Complainant contends these comparisons are absolutely valueless because of the nonproduction of rails. We, however, cite the Virginia intra-state rates for distances in Virginia equal to those from Kenova to Matewan and Abingdon, because defendant says they serve as a

measure of reasonableness, the haul from Iron-ton being entirely by its road and the transportation from Huntington being over two lines.

All of the rate comparisons submitted by complainant as to the rates to points on the Baltimore & Ohio and Chesapeake & Ohio roads are decried by defendant as inept because they merely serve to reiterate the argument so frequently made in other cases before us in respect of defendant's rates west of Roanoke; that is, that the trunk line basis of rates operative over those two lines should apply also over the line of the defendant. But we have consistently declined to require the defendant to meet the competitive condition extant at Roanoke and Salem at points where that competition does not prevail.

Defendant asserts that the present proceeding merely revamps the issues already considered and determined by the Commission in the former case. Although defendant appreciates that the Commission is not bound by the doctrine of judicial estoppel, there has been no change in the conditions of transportation which would make for lower rates than those found reasonable by the Commission to specified points, and as the spirit of the Commission's decision has been followed to several points to which our order did not require the rates to be reduced to the same extent; as the Huntington rates do not reflect the 5 per cent increase and rates from other points do, the Commission should not disturb its former decision unless some new evidence or some material change of conditions is brought to our attention. It is said that if the price of rails was considered the main criterion for making the rates, they would unquestionably be higher than they were when the decision was rendered.

In this case, as in the former case, complainant refers to the proportions of the through rates received by the defendant from the transportation of rails from other producing points to the coal fields and says, for instance, as there is no evidence of bargaining between the participating carriers and the defendant, complainant submits that the proportion which the defendant is said to receive for the service it performs from Kenova to the coal fields on traffic originating at Pittsburgh should not be exceeded for identically the same service which the defendant performs from Kenova on traffic originating at Huntington. The so-called division of the defendant received from Pittsburgh traffic is found by subtracting the local rate on rails of \$2 from Pittsburgh to Kenova from the through rate of \$4.36 on rails from Pittsburgh to the coal fields. Adding to the remainder \$2.36, which is not otherwise shown to be the defendant's proportion of the joint rate, the suggested rate of 30 cents from Huntington to Kenova, which complainant alleges would be reason-

able, complainant says a blanket rate of \$2.66 from Huntington to all points in the coal fields as a grouped destination would be reasonable. The suggested blanketing of the destination territory is analogized in the blanketing of the same destination territory from rail-producing points other than Huntington. Defendant objected to the introduction of any testimony on behalf of complainant in respect of divisions as not relevant or pertinent in the determination of through rates. We have uniformly held that ordinarily very little weight can be given to the amounts of divisions accruing to a particular carrier in determining the reasonableness of rates.

Bearing in mind the extremes of distances of the various blanket adjustments from the principal rail-producing points other than Huntington, it is pertinent, we think, to specifically cite how some of the rates culled from complainant's exhibits, which in some instances chance to be for the mean distance to the group, compare with rates from Huntington for similar distances. Abingdon, Va., situated 368 miles from Huntington, is apparently the maximum distance point taking the maximum rate of \$3.65. From Cumberland for a similar distance to Vickers, in the state of Virginia, a point on the line of defendant, the rate is \$4.30; from Pittsburgh to Matewan, a distance of 396 miles, the rate is \$4.36; from Steelton, in the state of Pennsylvania, to Belspring, in the state of Virginia, 366 miles, the rate is \$4.42; from Lorain the rate to Matewan, 410 miles, is \$4.36; from Newark to Bluestone, in the state of West Virginia, 366 miles, the rate is also \$4.36. Even to some stations on the Virginian Railway, the rates of which are said to be influenced by the trunk line adjustment, the rates on rails are relatively higher than those from Huntington. For example, the rate from Pittsburgh to Mullens, in the state of West Virginia, 365 miles, is \$3.78. In fact, the defendant asserts, instead of being charged unreasonable rates and being subjected to unjust discrimination and undue prejudice, Huntington to-day, in a greater measure than it did when the former decision was announced, enjoys an actual rate advantage over its competitors.

**HARLAN, Commissioner:**

Except for certain minor corrections and changes in phraseology made to meet certain exceptions filed by the complainant, the foregoing is the report prepared by the examiner who heard the evidence in the proceeding. To the examiner's recommendation that the petition be dismissed objection is also made by the complainant on the grounds stated in its exceptions. The record has accordingly been carefully reviewed.

The rates complained of apply on light steel rails in carloads from Huntington, in the state of West Virginia, to destinations in the coal fields on the line of the Norfolk & Western east of Matewan, in that state, and west of Salem, in the state of Virginia. To all these points the entire haul, except for a distance of 6 miles between Huntington and Kenova, is over the rails of the carrier just mentioned; and the rates from Huntington to these destinations are alleged to be unreasonable, unjustly discriminatory, and unduly preferential. The record makes it clear, however, that the complainant's real interest in the matter is confined largely to a rate preference to the destinations mentioned which it alleges to exist in favor of such competing points as Cumberland, in the state of Maryland, Newark, in the state of Ohio, and Pittsburgh and Johnstown, in the state of Pennsylvania, where light steel rails are made and shipped into the coal fields in question. The general manager of the complainant stated, as we understand his testimony, that once a proper relation of rates, or "a proper basis," as he expressed the thought, is arrived at, the complainant would not object to rates giving additional revenue to the carriers—"We are simply asking the Commission to decide for us what is the proper basis." It is to be noted, however, that while the Norfolk & Western, as just stated, has the entire haul from Huntington to the destinations in question, it does not with its own rails serve any of the producing points alleged to be unduly preferred.

The destination territory involved here is broader than the territory of destination in *West Virginia Rail Co. v. B. & O. R. R. Co.*, 26 I. C. C., 622; but with that difference the issues in the two cases are identical. In the latter case the allegation of undue prejudice was not sustained by the Commission and the more voluminous record in this case, instead of leading to the conviction that error was made in the disposition of the previous case, shows that the rates from Huntington, because of subsequent changed conditions, are really more favorable now than they were when the report in the previous case was announced in 1913.

Upon the evidence before us the Commission adopts as its own the foregoing report of the examiner, modified as hereinbefore explained. It is of the opinion, and so finds and concludes, that the rates for the carriage of light steel rails from Huntington to points of destination on the Norfolk & Western Railway in the states of Virginia and West Virginia are not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. The complaint must, therefore, be dismissed, and it will be so ordered.

No. 9688.  
LUNHAM & MOORE  
v.  
CENTRAL RAILROAD COMPANY OF NEW JERSEY.

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*Submitted December 5, 1917. Decided February 9, 1918.*

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Upon complaint brought to determine the liability of complainant in respect of certain demurrage charges on a shipment of oil alleged to have been loaded contrary to instructions; *Held*, That the evidence of record does not show the charges to have been improperly assessed. Complaint dismissed.

*A. J. Rifkind* for complainants.

*A. H. Elder* for defendant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

The complaint herein attacks the propriety of a demurrage charge of \$200 assessed by defendant on a quantity of oil held aboard a lighter in New York harbor from September 24, 1915, until October 18, 1915.

The complainants, copartners, are freight forwarding agents in New York City. On September 23, 1915, they had on hand at defendant's lighterage terminal at Communipaw, N. J., 1,125 barrels of lubricating oil shipped from Marcus Hook, Pa., to New York for export to France. Some time during the morning of that day they directed defendant by telephone to lighter this oil to the steamship *Ilvington Court*, then in the harbor. Within an hour after this order had been given, authority to ship the oil on that vessel was withdrawn, which fact, they allege, was immediately communicated by telephone to some one employed in defendant's lighterage department with instructions to cancel the order previously given.

Defendant denies having received instructions to cancel the order to load the shipment until late in the afternoon of the following day. At that time the oil was on the lighter and complainants were so notified, and advised that it would be held for disposition subject to demurrage. Disposition orders were given on October 12 and the lighter was released October 18, the period of detention being 23 days in all. Under defendant's demurrage tariff then in effect three days' free time was permitted on shipments aggregating more than 200

tons, which would include the oil in question, further detention to be at a charge of \$10 per day.

Complainants allege that they were without knowledge that demurrage was accruing until on or about October 12. To the contrary is the testimony of defendant that they were specifically advised of the fact many times prior to that date. Complainants have refused to pay these charges and have brought this proceeding to determine their liability.

The Commission is asked to find that a cancellation order was given on September 23 prior to any action taken by the defendant to comply with the original instructions and before any charges had accrued that defendant was therefore unauthorized in incurring any expense, and that complainants were entitled to notice of demurrage under a rule contained in the by-laws of the New York Produce Exchange.

The power of the Commission to adjudicate complaints brought before it extends only to such acts or omissions of common carriers as are in contravention of the provisions of the act to regulate commerce. As an administrative body, however, it has held that it may consider the merits of a controversy submitted to it without first determining the question of its jurisdiction, but affirmative relief, such as is here sought, may only be granted when jurisdiction over the subject matter is definitely ascertained. *Corporation Commission of Oklahoma v. A., T. & S. F. Ry. Co.*, 25 I. C. C., 120.

The petition under consideration does not state a violation of the act to regulate commerce, but alleges as an infraction of right that—

Owing to the carelessness and negligence of the defendant, its agents, servants and representatives in failing to carry out the instructions given by the complainants herein to cancel the previous instructions to load the oil as hereinabove stated, and in failing to comply with rule 6 of the by-laws of the New York Produce Exchange, and in further violating the instructions of the complainants herein and incurring the expenses and attempting to hold complainants for their demurrage, the complainants maintain that they are not liable in the premises.

Without considering the question of the Commission's jurisdiction to entertain a complaint of this nature, we are of opinion that the evidence of record does not show the demurrage charges complained of to have been improperly assessed. The complaint should, therefore, be dismissed.

HARLAN, *Commissioner*:

The foregoing report prepared by the examiner who heard the testimony was served upon the parties to the proceeding in accordance with the established practice; and as no exceptions were filed by either side the case now stands submitted.

It will be observed that the petition of the complainants, at the point quoted by the examiner, alleges carelessness and negligence on the part of the defendant in failing to carry out instructions to cancel the complainants' previous instructions to lighter the shipment in question to a vessel then in the harbor, and also in failing to comply with rule 6 of the by-laws of the New York Produce Exchange. After suggesting a doubt as to the Commission's jurisdiction of a complaint of that nature, the examiner's recommendation is that the petition be dismissed upon the ground that the charges in question have not been shown to have been improperly assessed. Upon a careful examination of the record we think it fully sustains the examiner's view of the evidence offered and warrants a dismissal of the petition.

Although there is much conflict between the parties as to the facts in the case, some points are not disputed. It is conceded that the complainants directed the defendant to deliver the oil to a designated steamship then in the harbor and that the defendant thereupon loaded the 1,125 barrels upon a lighter in order to effect delivery as directed. It is also fully established that the vessel refused to accept the shipment and that the complainants, although promptly advised of this, failed to give further disposition for a period of some 23 days, and that in consequence the oil remained on board the lighter for that length of time. Demurrage charges aggregating \$200 were accordingly assessed against the shipment under the authority of an item in the defendant's demurrage tariffs providing a charge of \$10 a day for any detention of the lighter beyond the first three days. As to these matters there is no controversy.

The case turns, however, upon the complainants' assertion that within an hour after the defendant was ordered to lighter the oil to the vessel, the complainants countermanded the order. For the defendant, on the other hand, it is asserted that the instructions to cancel the order were not received by it until late during the afternoon of the following day, after the oil had been loaded upon the lighter. Upon hearing from the complainants at that time the defendant advised them that the oil was already on the lighter and that it would be held for disposition subject to demurrage. The evidence offered of record is largely confined to this point of difference between the parties to the proceeding; but it will not be necessary or useful here to analyze the conflicting statements of the several witnesses who testified on that phase of the case. It will suffice to say that upon a careful study of all that appears of record we find the complainants have not sustained their contention on that

point by the weight of the evidence. One other fact it may be well to note, namely, that for days after the complainants had been advised that the entire shipment had been loaded on the lighter, they failed either to order the oil removed from the lighter or to give further disposition for the shipment. By the defendant's witnesses it is asserted that the day after the lighter had been loaded and many times later the complainants were specifically advised by the defendant that it was being detained under demurrage. The complainants, on the other hand, assert that they did not know that demurrage was accruing until on or about the date when they finally gave disposition orders to the defendant. But it is not necessary to attempt to resolve the irreconcilable conflict between the parties on that question; for whether the complainants knew the demurrage was running or not, the tariffs of the defendant so provided and therefore are controlling.

We find upon the whole record that the complainants have failed to sustain their contentions and the complaint must therefore be dismissed. Such an order will be entered.

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INVESTIGATION AND SUSPENSION DOCKET No. 1090.  
MONTGOMERY, ALA.-JACKSON, MISS., GRAIN  
PRODUCTS.

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*Submitted October 1, 1917. Decided February 9, 1918.*

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Proposed cancellation of commodity rate on coarse grain products, in straight or mixed carloads, from Montgomery, Ala., to Jackson, Miss., found justified. Orders of suspension vacated.

*Joseph G. Kerr, jr.*, for respondent.

*George Butler* for protestant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

By schedules, filed to take effect May 23, 1917, respondents proposed to cancel their commodity rates of 13.5 cents per 100 pounds on bran, feed, mill stuff, corn meal, hominy grits, hominy feed, brewers' grits, brewers' meal, grain screenings, middlings, shorts, and ship stuff, in straight or mixed carloads, from Montgomery, Ala., to Jackson, Miss., thereby rendering applicable the class D rate of 18 cents per 100 pounds. Upon protest by the Hannah Distributing Company, of Jackson, the schedules were suspended until March 20, 1918. Protestant is principally interested in the rates on what is generally known as velvet-bean meal or velvet-bean feed, to which is applied the rate on feed and mill stuff. The present rate applies over the Louisville & Nashville Railroad to Birmingham, Ala., and Alabama Great Southern Railroad and Alabama & Vicksburg Railway to Jackson; Louisville & Nashville to Gulfport, Miss, and Gulf & Ship Island Railroad to Jackson; Louisville & Nashville to New Orleans, La., and the Illinois Central or the New Orleans & Northeastern railroads to Jackson. The Louisville & Nashville assumed the burden of justifying the proposed cancellation and will hereinafter be referred to as respondent. Rates are stated in cents per 100 pounds.

Respondent asserted that in the past the rates from Montgomery to Jackson on coarse grain products have been made 4 cents under the rates from St. Louis to Jackson. A rate of 14 cents, Montgomery to Jackson, was established by respondent, effective March 15, 1903,

due to the action of certain carriers serving St. Louis in establishing a rate of 18 cents from St. Louis to Jackson. On August 16, 1903, following a reduction in the latter rate to 17.5 cents, the rate from Montgomery was reduced to 13.5 cents. Since January 1, 1916, the local rate on grain and grain products from St. Louis to Jackson has been 24 cents, although the principal movement of these products from St. Louis to Jackson is under a reshipping rate of 20 cents, which rate we found justified in *Green v. A. & V. Ry. Co.*, 43 I. C. C., 662.

Prior to May 15, 1917, a commodity rate of 13.5 cents also applied over the Western Railway of Alabama and the Mobile & Ohio Railroad. On that date this rate was canceled, leaving in effect the class rates. Protestant testified that this cancellation was not protested because it had no notice of the action of the carriers until after the cancellation had become effective.

The short-line route from Montgomery to Jackson, 250 miles, is over the Western Railway of Alabama, Southern Railway, Alabama Great Southern, and Alabama & Vicksburg. Over this route the former 13.5-cent rate yielded 10.8 mills per ton-mile and the present rate of 18 cents yields 14.4 mills. The shortest route by way of respondent's line is through Birmingham, Ala., and thence over the Alabama Great Southern and Alabama & Vicksburg, a distance of 345 miles. Over this route the 13.5-cent rate yields 7.8 mills per ton-mile and the proposed rate would yield 10.4 mills.

Respondent further stated that at the time it sought to cancel the rate to Jackson the rates on these commodities to all Mississippi Valley points were canceled because there was no movement from Montgomery of commodities originally intended to be covered by the above commodity description; and that the application of this commodity rate to shipments of velvet-bean feed was due to the fact that in republishing the original commodity description the words "grain and grain products" were omitted at the beginning of the description, thereby making the rates applicable to feed made from other than grain and grain products.

Rate comparisons by respondent are in evidence, including the following:

To Jackson from—	Distance.	Rate.	Revenue per ton-mile.
	Miles.	Cents.	Mills.
New Orleans, La.....	183	15	16.4
Mobile, Ala.....	186	17	18.3
Memphis, Tenn.....	211	17	16.1
Paducah, Ky.....	367	22	12
Cairo, Ill.....	370	22	11.8
Nashville, Tenn.....	409	22	10.7

## MONTGOME

Respondent also destinations in Mi miles, to 24 cents, 20.8 mills per ton.

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No. 8315.

**M. KING ELEVATOR COMPANY**  
*v.*  
**CHICAGO, BURLINGTON & QUINCY RAILROAD  
COMPANY ET AL.**

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*Submitted June 16, 1917. Decided February 4, 1918.*

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On reconsideration, rate charged on bulk corn, in carloads, from Homer, Nebr., to Joplin, Mo., found to have been illegal. Reparation awarded.

*C. E. Childe* for complainant.

*Kenneth F. Burgess* and *Thomas Bond* for defendants.

**REPORT OF THE COMMISSION ON RECONSIDERATION.**

**BY THE COMMISSION:**

The complaint, filed September 22, 1915, alleged that the rate charged by defendants on a carload of bulk corn from Homer, Nebr. to Joplin, Mo., was unreasonable, unjustly discriminatory, and in violation of the long-and-short-haul rule of the fourth section. Reparation was asked. Our findings in the original report, 42 I. C. C., 301, were substantially as follows. Rates are stated in cents per 100 pounds:

The shipment, weighing 79,744 pounds, moved in August, 1914, over the Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, to Kansas City, Mo., and beyond over the St. Louis & San Francisco Railroad, now the St. Louis-San Francisco Railway and hereinafter called the Frisco, a distance of 465 miles. Charges were collected in the sum of \$169.46 at a combination rate of 21½ cents, composed of 13½ cents to Kansas City and 8 cents beyond.

Homer is located on the Burlington, approximately 15 miles southwest of Sioux City, Iowa, where the Great Northern Railway connects with the Burlington. When the shipment moved, a joint rate of 17½ cents applied on corn, in carloads, to Joplin from Minneapolis and other points on the Great Northern between Sioux City and Minneapolis, in connection with the Burlington and Frisco through Homer. Prior to the movement of the shipment, schedules were filed, to become effective in January and February, 1914, pro-

posing, among other things, the withdrawal of the Great Northern from participation in the route through Sioux City and Homer, which would have rendered the 17½-cent rate inapplicable from Homer and other points intermediate from Minneapolis to Joplin. These schedules were suspended and on October 13, 1914, we found the proposed withdrawal justified. *Grain Rates from St. Paul, Minn.*, 32 I. C. C., 96. The combination rates now in effect from points on the Great Northern, except from Minneapolis, are higher than the rates from Homer to Joplin. Complainant did not contend that the rate charged was intrinsically unreasonable but insisted that it was unduly prejudicial in that shippers north of Homer could ship grain through that point to Joplin at the 17½-cent rate. The shipment moved during the period when the proposed cancellation of the 17½-cent rate was under suspension. We found that the rate assailed was not shown to have been unduly prejudicial and dismissed the complaint. As the route from Minneapolis to Joplin, by way of the Great Northern, Burlington, and Frisco, is more than 15 per cent longer than the short-line route over which the 17½-cent rate applied, defendants were authorized to continue rates on corn to Joplin from Minneapolis over the former route lower than the rates contemporaneously maintained on like traffic from Homer and other intermediate points. On April 28, 1917, the case was reopened at complainants' request for argument on briefs.

Complainant now urges that the 17½-cent rate was legally applicable from Homer and that the shipment was overcharged. Frisco tariff I. C. C. No. 6255, effective June 1, 1911, named a rate of 17½ cents from Minneapolis to Joplin and also contained a clause permitting the intermediate application of that rate from Homer. The purpose of our suspension of items in supplement No. 23 of the above tariff, filed to become effective February 6, 1914, was to postpone the withdrawal of the Great Northern from the route from Minneapolis and thereby continue the application of the Minneapolis rate from intermediate points. Effective May 26, 1914, during the period of suspension, the Frisco filed I. C. C. No. 6699, canceling I. C. C. No. 6255, except the items under suspension therein. The clause for the intermediate application of rates was amended so to restrict it to points of origin on the Frisco only. On June 12, 1914, special permission was granted to apply Minneapolis rates from intermediate points of origin on the Great Northern north of Sioux City. While the items covered by our suspension order were not canceled, the restrictions in I. C. C. No. 6699 had the effect of nullifying the purpose of the suspension order as to intermediate points on the Burlington, including Homer.

We find that the 17½-cent rate was legally applicable to complainant's shipment. We further find that complainant, a corporation, made the shipment as described and paid and bore the charges thereon at the rate herein found illegal; that it has been damaged to the extent that the charges paid exceeded the charges that would have accrued at the rate legally applicable; and that it is entitled to reparation in the sum of \$29.91, with interest.

An appropriate order will be entered.

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MARTING IRON & STEEL COMPANY.  
SECOND INDUSTRIAL RAILWAYS CASE.

No. 4181.

IN THE MATTER OF ALLOWANCES TO SHORT LINES  
OF RAILROAD SERVING INDUSTRIES.

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INVESTIGATION AND SUSPENSION DOCKET No. 414.  
CANCELLATION OF RATES IN CONNECTION WITH  
SMALL LINES BY CARRIERS IN OFFICIAL CLASSIFI-  
CATION TERRITORY.

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*Decided February 9, 1918.*

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1. The Marting Iron & Steel Company by the operation of its plant tracks acts only in the capacity of a plant facility and not as a common carrier.
2. The trunk lines may not make any allowance for switching between points of interchange and points of final placement within the plant of the steel company.

*I. P. Blanton* for protestant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

By DIVISION 3:

This report relates to the Marting Iron & Steel Company, hereinafter called the steel company, party to *Second Industrial Railways Case*, herein, 34 I. C. C., 596.

In 1899 the steel company acquired by purchase the blast furnace which it now operates at Ironton, in the state of Ohio. There are

about 3.5 miles of yard tracks and sidings within its plant inclosure. For the purpose of hauling away slag and other refuse of the plant and using these waste materials for filling low places on the plant property the steel company purchased a locomotive, which it used also in performing a large part of the necessary switching of materials to and from the rails of the connecting carriers, the Norfolk & Western and the Detroit, Toledo & Ironton railroads, which extend into and through the plant property. When the filling was completed, in 1902, the steel company desired to discontinue its locomotive service and called upon the connecting carriers to receive and deliver cars directly at the point of loading or unloading within the plant inclosure, as they did for other furnaces in the same territory. Thereupon the Norfolk & Western and the Detroit, Toledo & Ironton, to avoid the necessity for each of them to maintain a switching engine and a crew at the plant, agreed to allow the steel company 45 cents per loaded car in and out of the plant if it would continue to switch cars from and to the interchange point to and from points within the plant inclosure. This the steel company agreed to do, although the allowance was less than the actual cost of the service, and the arrangement continued until December 2, 1907, when the allowance by the Norfolk & Western was increased to 60 cents per car. Later the same allowance was made by the Detroit, Toledo & Ironton, the Chesapeake & Ohio, and the Cincinnati, Hamilton & Dayton, the two last-named roads reaching the plant by means of trackage rights over the Detroit, Toledo & Ironton. This allowance remained in effect until April 1, 1914, when it was canceled, and none has since been made. We are asked to order the restoration of the allowance and that it be applied on cars switched between April 1, 1914, and the date of restoration.

The steel company's equipment consists of two locomotives, one of which it owns. The other is leased from the Norfolk & Western. The service performed by the steel company is the switching of cars between the points of loading or unloading within the plant inclosure and the interchange point with connecting carriers, an average distance of 1,200 feet. No industries or shippers other than the steel company are served. The movement of material from the stock piles to the furnace is by basket or small electric engine. The ore, coke, and limestone brought in by the trunk lines is spotted by locomotives of the steel company on the trestles over the bins. Cars are interchanged with connecting carriers under the demurrage rule and average agreement.

The custom and general usage of the trunk line carriers is to place the cars for loading or unloading, but this custom does not involve complicated movements within the plant after one place-

ment has been made. There is no obligation on the carriers to undertake such a service after delivery has been made by placing the cars within the plant. Nor is there any burden upon carriers to absorb the costs of such service when performed by the shipper if for commercial or manufacturing convenience the shipper excludes the carriers from themselves performing the final placement by a single movement. *General Electric Co. v. N. Y. C. & H. R. R. R. Co.*, 14 I. C. C., 237.

Upon all the facts of record, we are of the opinion and find that in the operation of its plant tracks the Marting Iron & Steel Company acts only in the capacity of a plant facility and not as a common carrier; that the placing of cars on the tracks within the plant inclosure designated by the industry constitutes delivery by the trunk lines under their line-haul rate; and that the subsequent service of switching cars from the designated tracks to points of placement within the plant inclosure constitutes an additional movement not covered by the line-haul rate for which an additional charge must be made if the service is performed by the trunk lines. *Car Spotting Charges*, 34 I. C. C., 609, 618. Conversely, if the service is performed by the industry itself, no allowance therefor may with propriety be made to it by the trunk lines. *Second Industrial Railways Case*, *supra*; *Chicago, West Pullman & Southern R. R. Case*, 37 I. C. C., 408.

## BUTTE,

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The rates assailed, in which few changes have been made since 1909, are commodity rates, on a level with or slightly lower than the

Short Line's distance scale of rates on the same commodities, but higher than other distance rates, both intrastate and interstate, in the northwest. From points on the Short Line to Butte the rates on grain range from 18 cents to 39 cents, and on grain products from 20 cents to 42 cents, for distances from approximately 140 miles to 630 miles, and from actual shipping points average 22.27 cents on grain and 25.3 cents on grain products for an average distance of 250 miles. The rates on flour and other grain products are, with a few exceptions, 3 cents higher than the grain rates.

On January 2, 1914, the rates on flour and mill stuffs from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts, Idaho, to Butte were increased from 20 cents, the grain rates from and to the same points, to 23 cents.

There were cited for complainants the following distance rates on both grain and grain products for distances approximating 250 miles: Montana, intrastate, 22 cents; Washington, intrastate and interstate, 21.25 cents; North Dakota, interstate, 20 cents, and intrastate, 16.5 cents; North Dakota-Minnesota, interstate, 19.5 cents; Minnesota-Iowa, interstate, 21 cents; Kansas, intrastate, 16.25 cents; Nebraska-Kansas, interstate, 13.5 cents; Illinois, intrastate, 11.2 cents; Missouri, intrastate, 12.2 cents; and Minnesota, intrastate, 10.2 cents. Also lower specific rates to Minneapolis, averaging 14.1 cents for 398 miles from certain North Dakota points, and 25.35 cents for 798 miles from certain Montana points. Some of those comparisons, reduced to ton-mile and car-mile earnings, show that the rates attacked are relatively high. It was pointed out for complainants that the commodity rates on hay and straw to Butte from points on the Short Line, ranging from 12 cents for approximately 140 miles to 36 cents for 630 miles, are, with but an exception or two, the same as that defendant's distance rates. Comparisons show them to be considerably higher than either the Minnesota and North Dakota intrastate distance scales or the specific rates from North Dakota points to Minneapolis. Complainants do not contend that all of the rates with which comparisons are made apply under similar transportation conditions, but insist that the differences are greater than are warranted.

They propose, as a fairly comparable and reasonable basis, the voluntarily established distance scales of the Great Northern, the Northern Pacific, and the Chicago, Milwaukee & St. Paul railways applying on Montana state traffic. The application of the proposed basis would result in reductions ranging up to 20 per cent on grain, 26 per cent on grain products, and 14 per cent on hay and straw. There would, however, be no change in the rates on hay and straw for distances under 350 miles.

Complainants urge that the rates on grain products should not exceed the rates on grain, which is said to be the usual adjustment throughout the northwest. While this relationship appears to obtain more or less generally east of the Rockies, including territory from which Butte draws grain and grain products, in *Utah-Idaho Millers & Grain Dealers Asso. v. R. R. Co.*, 42 I. C. C., 648; 44 I. C. C., 714, we prescribed rates on flour and other products of wheat from points in Utah and Idaho to points in Nevada and California which should not exceed by more than 5 cents the then existing rates on wheat from and to the same points. It was there pointed out that flour is more valuable than wheat, is at least as susceptible of damage in transit, and usually loads much less heavily. Whatever conclusions we might reach upon a more comprehensive and satisfactory record, particularly with respect to the lower grade by-products of milling, we are not persuaded upon this record that the rates on grain products should not exceed those on grain.

The respective ton-mile revenues under the rates on grain, grain products, and hay range from 25.9, 28.8, and 17.3 mills for 140 miles to 12.3, 13.2, and 11.3 mills for 630 miles, and the corresponding car-mile earnings at the applicable minima range from 65, 43, and 19 cents to 31, 20, and 12 cents. For the average distance of 250 miles from the actual shipping points before mentioned the ton-mile and car-mile revenues are, respectively, 18.4, 20, and 14.4 mills and 46, 30, and 16 cents. Comparisons with rates on other lines operating in Nevada, Idaho, Utah, and Montana, and of the respective ton-mile earnings thereunder submitted in defendants' behalf, are on the whole not unfavorable to the rates assailed. Defendants also stress the transportation conditions on the Short Line. Over the distance of 263 miles from Pocatello, Idaho, to Butte, there are grades of 2.43 per cent, 1.26 per cent, and 1.23 per cent, with considerable curvature, and much helper service is necessary. The grade of 2.43 per cent is northbound between Dubois, Idaho, and Monida, Mont., 30 miles, and is computed by defendants as equal to 146 miles of straight, level track. Much of the grain originates on branch lines, where the tonnage is light, and moves in the late fall and winter season, when operation is difficult because of snow and cold. It is urged that, considering these conditions, the rates assailed are reasonable.

In justification of the increased rates on flour and mill stuffs from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts, it is explained for defendants that the rate from Rexburg, Idaho, was theretofore 5 cents higher than from those points, and that, importuned by the Rexburg milling interests to reduce the difference to 2 cents to correspond with the spread in rates from Rexburg and Idaho Falls to

market points other than Butte, the rates were increased 3 cents. It should also be observed that the increase established the relationship between the grain and products rates obtaining for the most part from the remaining Short Line stations to Butte.

The Short Line operates from Silver Bow, Mont., to Butte, a distance of 7 miles, over the tracks of the Northern Pacific under a lease which gives it trackage rights in Butte in the "lower yard" only. A charge of 15 cents per net ton, minimum \$3 per car, maximum \$6 per car, is assessed by the Northern Pacific for switching carload shipments arriving at Butte over the Short Line destined to complainants' industries, which are located in the "upper yard." The traffic from points on the Short Line to Butte is noncompetitive. The rates assailed apply also as joint rates by way of Silver Bow and the Butte, Anaconda & Pacific Railway, which has its own team tracks within a block of complainants' warehouses. While the switching charges are assailed, it was explained at the hearing that complainants object only to the addition of these charges to the line-haul rates, which they insist should also be made to apply by way of Silver Bow and the Northern Pacific and should include free delivery service to all industries on the Northern Pacific tracks in Butte. They urge that the addition of the switching charges discriminates against them and in favor of their competitors whose industries are situated in the lower yard. Among other things, they refer to the arrangement at Ogden, Utah, where the yard is operated jointly by the Short Line, Southern Pacific Company, and Union Pacific Railroad; but this does not appear to be an arrangement for the absorption by any carrier of the switching charges of a connecting line.

It is urged for defendants that the addition of the switching charge to the line-haul rates is not unreasonable, and that, while it is a custom of railroads to absorb such switching charges on competitive traffic, they do not generally absorb them on traffic that is noncompetitive; and that there is no unlawful discrimination against complainants in favor of their competitors situated in the lower yard, inasmuch as the latter are virtually on the Short Line's tracks, while a delivery to complainants requires an additional switching service by the Northern Pacific.

Upon all the facts of record we are of the opinion and find that the rates and switching charges assailed are not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial; and that the increased rates on flour and mill stuffs from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts to Butte have been justified.

An order dismissing the complaint will be entered.

No. 8395.<sup>1</sup>

**SPOKANE LUMBER COMPANY**

*v.*

**GREAT NORTHERN RAILWAY COMPANY ET AL.**

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**PORTIONS OF FOURTH SECTION APPLICATIONS**  
**Nos. 348 AND 351.**

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*Submitted May 29, 1916. Decided February 9, 1918.*

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1. Rates on lumber, in carloads, from certain points in Washington and Idaho taking Spokane rates to points in Kansas and Colorado found to have been and to be unreasonable. Reasonable rates prescribed and reparation awarded.
2. Fourth section relief granted in part.

*E. M. Fronk* for complainants.

*J. J. Coleman, Robert Dunlap, and T. J. Norton* for Atchison, Topeka & Santa Fe Railway Company.

*J. C. LaCoste, W. F. Dickinson, and Wallace T. Hughes* for Chicago, Rock Island & Pacific Railway Company and its receiver.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**By DIVISION 3:**

Complainants are corporations and individuals engaged in the lumber business at Spokane and Milan, Wash., and Sand Point, Idaho. By complaints, filed between October 16 and December 10, 1915, inclusive, they allege that the rates charged on nine carloads of pine and fir lumber and cedar poles and posts shipped from Milan and Springdale, Wash., and Culver Spur, Sand Point, and Careywood, Idaho, to Flagler, Lamar, and Stratton, Colo., and Deerfield, Kans., between September 23, 1913, and September 18, 1915, inclusive, were unreasonable, unjustly discriminatory, and in violation of the fourth section of the act to the extent that they exceeded a rate of 47 cents per 100 pounds contemporaneously maintained on lumber from the same originating points to points in east-

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<sup>1</sup> This report also embraces No. 8395 (Sub-No. 1), Sand Point Lumber & Pole Company *v.* Northern Pacific Railway Company et al.; No. 8395 (Sub-No. 2), Orrin S. Good *v.* Great Northern Railway Company et al.; and No. 8395 (Sub-No. 3), Clarence F. Carey *v.* Northern Pacific Railway Company et al.

ern Kansas, Kansas City, Mo., and other Missouri River points. It is also alleged that defendants' rule providing for the collection of charges on carloads of lumber upon the weights ascertained at the scales nearest to point of origin is unreasonable and unjustly discriminatory when those weights are higher than the weights ascertained at other points in transit. Reparation is asked and the establishment of reasonable rates and rules for the future. The claim on the shipment from Culver Spur to Stratton delivered October 20, 1913, is apparently barred by the statute of limitations. At the hearing counsel for complainants sought to enlarge the issues by including an attack on rates to Simla and Bristol, Colo. While the defendants represented at the hearing interposed no objection, the record does not show from what points the rates referred to apply, and therefore those rates will not be considered. Rates are stated in cents per 100 pounds.

All of the points of origin are grouped with and take the same carload rates on lumber as Spokane, Wash. Flagler and Stratton are local points on the Chicago, Rock Island & Pacific Railway, hereinafter called the Rock Island, in eastern Colorado; and Lamar and Deerfield are local points on the Atchison, Topeka & Santa Fe Railway, hereinafter called the Santa Fe, the former in the eastern part of Colorado and the latter in the western part of Kansas. The shipments, consisting of pine and fir lumber and cedar poles and posts, all taking the rates applicable on lumber, moved over defendants' lines. The following table shows the rates charged and the present rates, together with the distances and ton-mile earnings:

From—	To—	Distance.	Rate charged.	Ton-mile earnings.	Present rate.	Ton-mile earnings.
		<i>Miles.</i>	<i>Cents.</i>	<i>Mills.</i>	<i>Cents.</i>	<i>Mills.</i>
Milan.....	{ Flagler.....	1,574	48	6.10	45	5.72
	{ Lamar.....	1,618	49	6.06	49	6.06
Culver Spur.....	Stratton.....	1,402	53.5	7.63	48	6.85
Sand Point.....	Deerfield.....	1,579	56	7.09	56	7.09
Springdale.....	Lamar.....	1,640	49	5.97	49	5.97
Careywood.....	Flagler.....	1,403	48	6.84	45	6.41

In all instances, except one, the joint rates charged were equal to the combination of a joint rate of 33 cents from the Spokane group to Denver or Pueblo, Colo., plus the local rates of the Santa Fe or Rock Island beyond. From Culver Spur to Stratton the combination on Denver was one-half cent higher than the joint through rate. The local rates of the Santa Fe and Rock Island from Denver or Pueblo to the points of destination ranged from 15 cents to 23 cents. Subsequent to the filing of the complaints some of these local rates have been reduced, and, effective June 10, 1916, the present



for which the 47-cent rate yields about 5.7 mills per ton-mile. The distance from Spokane to Kansas City over the route in connection with the Rock Island at Denver is about 1,995 miles, a distance for which the 47-cent rate yields 4.71 mills per ton-mile. The 33-cent rate from Spokane to Denver, 1,328 miles, yields about 4.97 mills per ton-mile. A rate of 42 cents applying on lumber from Spokane to St. Paul, Minn., 1,437 miles, yields 5.85 mills per ton-mile; and a rate of 52 cents from Spokane to Chicago, 1,833 miles, yields 5.67 mills per ton-mile. Rates are cited of 33 cents on lumber from the Hawley and Truckee groups in California to Colorado common points and certain points east thereof, including the destinations here before us, and of 47 cents from the same groups to points in Kansas, including said destinations. The tariffs in which these rates are published also provide for the application of combination rates when they are lower than the joint rates. The distances from these groups to Denver are stated to range from about 1,165 miles to 1,335 miles.

For the Rock Island and Santa Fe it is urged that the 47-cent rate to Kansas City and points in eastern Kansas is not a proper measure of the rates to points on their lines in western Kansas and eastern Colorado; that this rate is maintained solely for competitive reasons; that they are in a distinctly different situation from those lines over which the above-mentioned rate to Missouri River points was prescribed in the cases cited; that the Union Pacific fixed the 47-cent rate to Topeka, Belleville, and other competitive Kansas points; that the routing to the eastern Kansas points is through eastern Kansas junctions, as the Burlington and Union Pacific insist upon the long haul, their routes not being unreasonably long; that should the Rock Island or the Santa Fe discontinue their participation in this traffic to Kansas City or other competitive points in eastern Kansas, the 47-cent rate would still be maintained by competing carriers; that no shipments of lumber have been transported by the Rock Island through Denver to Missouri River points in the six months preceding the hearing; and that the destination points are located in a sparsely populated territory where the traffic is very light as shown in *State of Kansas v. A., T. & S. F. Ry. Co.*, 27 I. C. C., 673. For defendants a rate of 40 cents is cited on lumber from Seattle, Wash., to Yates and Glendive, Mont., 1,275 miles and 1,239 miles, respectively, yielding respective ton-mile earnings of 6.27 mills and 6.46 mills. Notwithstanding our findings in the cases above cited, it is contended on behalf of defendants that the 33-cent rate from the Spokane group to Denver is a very low rate reduced a number of years ago by the Burlington to meet a like rate on lumber from points in Louisiana and Texas to Denver for a much shorter distance, and that the local rates from Denver to the points in question are reasonable. Neither

the rates to or from Denver are attacked, the complaint assailing the joint through rates.

For complainants it is also urged that competing shippers from the Hawley and Truckee groups are accorded a substantial advantage over complainants in rates to the points concerned. The statements with respect to competition are general in character. For the Santa Fe it was stated that during 1915 only 18 carloads of lumber moved from the Hawley and Truckee groups to stations Lamar to Deerfield, inclusive. It would appear that the rates from the Spokane group to the destinations here are somewhat out of line with those from the Hawley and Truckee groups, but upon this record we do not feel justified in attempting to fix the relationship. In a letter written by a representative of the Santa Fe subsequent to the hearing an intention of readjusting the rates from the Hawley and Truckee groups was expressed. It appears that at the time of movement rates applying on mixed carloads of sash, doors, and lumber from the Spokane group to Stratton and Deerfield were somewhat lower than the rates on lumber in straight carloads, and such is the case at present with respect to Deerfield. It was stated for the Santa Fe that this situation was the result of an error, and that the tariffs would be amended so as to provide rates on the mixed shipments not lower than the lumber rates.

No substantial evidence was introduced for complainants to show that the application of charges based on the weights ascertained at the scales nearest to the point of origin is unreasonable when applied to carload shipments of lumber.

We find that the rates assailed were unreasonable to the extent that they exceeded 47 cents per 100 pounds and that, with the exception of the rates to Flagler, they are, and for the future will be, unreasonable to the extent that they exceed or may exceed 47 cents per 100 pounds. As rates to Flagler less than those herein found reasonable have been in effect for more than a year, no order with respect thereto is necessary for the future. No proof was introduced to show that any of the complainants paid and bore the freight charges except on the shipment in No. 8395, made by the Spokane Lumber Company from Milan, Wash., to Lamar and Flagler, Colo., and reparation is therefore denied on all the other shipments. We further find that the Spokane Lumber Company, a corporation, made the shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that it has been damaged to the extent that such charges exceeded those that would have accrued at the rates herein found reasonable, and that it is entitled to reparation, with interest. It should prepare a statement showing the details

of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

There were heard in connection with this case portions of Fourth Section Applications Nos. 348 and 351 of R. H. Countiss, agent, by which authority is sought to continue rates on lumber from Milan to points in Kansas lower than the rates contemporaneously applicable on like traffic to Flagler, Lamar, and other intermediate points. The witness for the Santa Fe testified that there were no fourth section departures in connection with the rates here under consideration to points on its line and the applications, so far as they relate to the Santa Fe, will be denied. The departures from the fourth section are the same from other points in the Spokane group as from Milan. The evidence introduced by petitioners in support of the Milan rates is equally applicable to the rates from other points in the same group, and, as we understand it, was submitted by petitioners in order that the rates from the entire group might be considered at this time. Our findings as to the rates from Milan should therefore be understood as applying to the rates from all other points in the same group.

The points in Kansas to which petitioners ask authority to maintain rates lower than to intermediate points are as follows: Atchison and Leavenworth; McPherson; Manhattan; and Salina. Atchison and Leavenworth are included in the so-called lower Missouri River cities group, which also includes Kansas City and St. Joseph. The rate from the Spokane group to these points is 47 cents. The maximum rate to intermediate points on the Rock Island is 54½ cents.

As above stated, the Union Pacific and the Burlington observe the 47-cent rate from Spokane to Missouri River cities as maxima at intermediate points. The line of the Rock Island between Denver and Kansas City runs approximately midway between the lines of the Burlington and the Union Pacific, and its route to the Missouri River cities does not materially differ in length from the routes of its competitors, over which the fourth section is observed. In our opinion there is no reason why the Rock Island should be permitted to charge higher rates to intermediate points than to the Missouri River cities, and authority to continue such higher rates will be denied.

To McPherson, Manhattan, and Salina the Rock Island maintains a rate of 47 cents from the Spokane group, which is the same as the rate over the Union Pacific, while rates to intermediate points grade up to a maximum of 51½ cents. No justification was offered by pe-

tioners for carrying higher rates to intermediate points than to more distant points, and fourth section relief will be denied.

These are the only situations that were assigned for hearing in connection with this complaint, but at the hearing the Rock Island called attention to the rates to Roswell, Colo., by way of Limon, Colo., which are lower than rates to intermediate points, and submitted evidence in justification thereof. Roswell, which is really a part of Colorado Springs, is a small station on the Rock Island. The rate on lumber from the Spokane group to Roswell is the same as the rate to Denver and Colorado Springs, and other Colorado common points, namely 33 cents, while the rates to intermediate points grade up to 42 cents. For the Rock Island it was stated that the rate to Roswell is made to meet the competition of the more direct line of the Denver & Rio Grande Railroad. The distance between Denver and Roswell is only 73 miles over the Denver & Rio Grande, while over the Chicago, Rock Island & Pacific by way of Limon it is 167 miles. In view of the circuitous character of the route of the Rock Island it should be granted relief in this situation. However, the rate of 42 cents which petitioners desire to continue to intermediate points appears to be excessive in comparison with rates for like distances on the lines of competing carriers in the same territory. Relief will be granted, therefore, upon condition that rates to intermediate points shall not exceed the rate to Roswell by more than 5 cents, and further that the present rates to said intermediate points shall not be increased except as may hereafter be authorized by some order of this Commission, and that they shall not exceed the lowest available combination.

Another situation where the Rock Island desires relief from the fourth section and concerning which evidence in justification of the fourth section departure was introduced at the hearing was on its route from St. Joseph through Altamont to Kansas City and Armourdale, Kans. At the present time it receives traffic from its connections at St. Joseph destined to Kansas City and Armourdale, and it desires to engage in the transportation of lumber to these points at the same rate that is in effect over other lines. The rate over other lines to both places is 47 cents and the Rock Island desires to meet this rate and to continue higher rates to intermediate points. The highest rate to intermediate points applies to Altamont, and is 5 cents higher than the rate to Kansas City. Altamont and the other intermediate points named are situated east of the Missouri River in territory to which rates are normally higher than the rates to Missouri River points, and the route of the Rock Island passing through these points to reach Kansas City and Altamont is necessarily circuitous. The situation presented is one in which the peti-

tioner should properly be granted some measure of relief from the fourth section, and it will be authorized to meet by way of this route to Kansas City and Armourdale the rates in effect over other lines to that point, and to maintain higher rates to intermediate points, provided that the present rates to the said intermediate points are not exceeded except as may hereafter be authorized by some order of this Commission, and provided further that the rates to said intermediate points shall not exceed the lowest available combination.

Appropriate orders will be entered.

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No. 9251.<sup>1</sup>

FRUIT DISPATCH COMPANY

v.

PHILADELPHIA & READING RAILWAY COMPANY.

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*Submitted March 20, 1917. Decided January 9, 1918.*

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Failure of defendants to install door boards or slats for the protection of certain imported shipments of bananas, in carloads, from New York. N. Y., Greenville, N. J., Philadelphia, Pa., and Baltimore, Md., to various interstate points found to have been unlawful. Reparation awarded.

*Kerner Easton* for complainant.

*C. T. Wolfe* for Philadelphia & Reading Railway Company.

*E. P. Bates* for Pennsylvania Railroad Company and Philadelphia, Baltimore & Washington Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS CLARK, HALL, AND ATTCHISON.

BY DIVISION 3:

The questions involved in these cases are identical and may be disposed of in a single report.

Complainant is a corporation engaged in importing, distributing, and selling tropical fruits to and through ports in the United States, including New York, N. Y., Greenville, N. J., Philadelphia, Pa., and Baltimore, Md. By complaint in No. 9251, filed October 11, 1916, it alleges that the defendant Philadelphia & Reading Railway Company refused to install or to compensate complainant for install-

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<sup>1</sup> This report also embraces No. 9361, *Same v. Pennsylvania Railroad Company et al*  
48 I. C. C.

ing door boards or slats in 96 cars used for the transportation of imported bananas from Philadelphia to various interstate destinations and to certain points in Canada between March 1 and April 6, 1915, inclusive, and that such refusal was unreasonable and unlawful.

By complaint in No. 9361, filed December 5, 1916, as amended, substantially the same allegations are made with reference to a large number of cars of imported bananas transported by the defendants Pennsylvania Railroad Company and Philadelphia, Baltimore & Washington Railroad Company from New York, Greenville, Philadelphia, and Baltimore to various destinations between February 1, 1915, and December 18, 1916, inclusive.

Reparation is asked in each case.

These bananas moved in refrigerator cars to various destinations, several of which are not located on the rails of the defendants and many of which are in the same states as the ports from which the shipments moved. Upon this record we are unable to determine whether the shipments which moved to points in the states in which the ports were located are subject to our jurisdiction, as it is not shown whether they were through shipments from the foreign points to final destination or whether the movement from the ports was over interstate routes. The complainant's witness testified that it was absolutely essential for safe transportation that two boards or slats be placed across each car door; and that, as defendants, despite repeated requests, declined to install such door boards or slats, complainant installed them at the actual cost for labor and material of 30 cents, 40 cents, and 42 cents per car, depending upon the time and the place at which the services were performed. Bills therefor were rendered, certain of which, covering door boards installed at New York and Baltimore, were inadvertently paid by defendants Pennsylvania Railroad Company and Philadelphia, Baltimore & Washington Railroad Company. The complainant has been billed for the amounts thereof, but collection has been deferred pending decision by us. The others remain unpaid.

At the time these shipments moved defendants' tariffs contained the following provision applicable to interstate shipments from the ports above mentioned:

On import traffic forwarded from ship's side, bonded warehouse, or appraisers' stores, requiring to be secured by blocking, staking, or otherwise, on or in cars for safe transportation, no charge for such service should be assessed against the property.

This provision has been continued in effect up to the present time without any substantial change.

All the shipments consisted of imported bananas and those covered by the complaint in No. 9251 moved from ship's side. As to the

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shipments in No. 9361, the following stipulation was entered into by the parties and is of record:

That all shipments of bananas covered by the complaint herein are shipments of import freights within the meaning of the rule set out in respondents' tariffs \* \* \* reading substantially as follows: (Provision above quoted) and thereunder it was proper for respondents to furnish slats for the protection of these shipments of bananas.

While the tariff provision quoted is not entirely clear, it undoubtedly contemplated that traffic of the kind described would, when necessary, be secured by defendants on or in cars by blocking, staking, or otherwise, without charge in addition to the freight rate. In our opinion the record establishes that the use of door boards or slats was necessary, and that the terms of the provision are broad enough to include the installation thereof. Defendants now make such installation without additional charge. They admit that the cost figures of complainant are not unreasonable.

We find that it was defendants' duty under their tariffs to install door boards or slats in connection with such of the above-described shipments as are subject to our jurisdiction and that their failure to do so was unlawful. We further find that complainant at its own expense supplied door boards or slats; that it was damaged in the amount of such expense based upon the costs per car above set forth; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined upon this record, and complainant should therefore prepare statements showing as to each shipment upon which reparation is claimed the details of the shipments in accordance with rule V of the Rules of Practice, including the cost of installing the door boards or slats, which statements should be submitted to defendants for verification. Upon receipt of statements so prepared and verified we will consider the entry of an order awarding reparation. The defendants alone undertook to furnish the door boards or slats, but the other carriers participating in the transportation may participate in any reparation awarded.

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in carloads from complainants' quarries to various interstate destinations, in connection with which defendants do not perform the switching to and from said quarries or compensate the complainants for such service when performed by them, are unreasonable and unduly prejudicial. The Commission is asked to require defendants to perform the switching service at the complainants' quarries, or in lieu thereof to make reasonable allowances therefor; or if said service is not performed or said allowance made, to prescribe for the future reasonable rates of transportation from said quarries to interstate destinations on defendants' lines. Reparation is asked on numerous shipments moved from complainants' quarries to various interstate destinations since April 2, 1914.

Complainants' quarries and tracks and the history of the service in question and the allowances made are described in *Westport Stone Co. and Big Four Stone Co. Case*, 38 I. C. C., 316, and need not be detailed here. The testimony in that proceeding was submitted in evidence in this case.

The Big Four's Michigan and Chicago divisions intersect at Greensburg, Ind. Westport is on the Michigan division about 13 miles south of Greensburg. Newpoint and St. Paul are on the Chicago division, the former about 9 miles east and the latter about 10 miles west of Greensburg. For a number of years prior to April 1, 1914, defendants on traffic from which they received a revenue allowed complainants \$1 per car for switching carloads of stone from their quarries. No allowance was made for the switching of empties, of inbound loaded cars, or of cars loaded with stone sold to the Big Four, except that for several years prior to about 10 or 12 years ago the allowance was made on shipments of stone sold to the Big Four. Since April 1, 1914, no allowance has been made. Engineers of the Big Four testified that measurements made by them showed the length of the Big Four's spur track leading from its main line to the track of the Westport Company to be 971 feet, and the length of its spur from its main line to the tracks of the Big Four Stone Company 300 feet.

Over 50 years ago a predecessor of the Big Four constructed a track approximately 3,800 feet in length from what is now the main line of the Chicago division, westwardly through the plant of the St. Paul Company. About 10 years later another predecessor of the Big Four constructed a track approximately 4,000 feet in length from a point near the western terminus of the previously constructed track, with which connection is made by switch, northeastward, crossing under the main line of the Chicago division, to a point about 1,000 feet beyond the plant of the Greeley Company. The track to the Greeley quarry serves another small quarry a short distance beyond. These

tracks are owned and maintained by the Big Four, which company switches all inbound and outbound loaded and empty cars for the St. Paul and Greeley companies and makes no charge therefor in addition to the line-haul rates, which are, with respect to practically all consuming points, group rates, applying from St. Paul, Westport, and Newpoint.

The stone mined at all four quarries is of the same kind, and there is competition between the quarries in the sale of their products which are marketed throughout central freight association territory.

The Big Four has been unwilling to perform the spotting service for complainants. Due principally to sharp curves, its locomotives can not operate over complainants' tracks, and complainants refuse to make the changes necessary to permit such operation unless they are compensated therefor by the Big Four.

There was submitted a stipulation between complainants and the Big Four to the effect that at present and for more than 25 years last past the Big Four performs and has performed all the switching of empty and loaded cars to and from mouths of quarries, mouths of mines, tipples of mines, feet of elevators, factory doors, warehouse doors, and loading and unloading platforms on its line, in connection with the shipment of commodities of all kinds, without compensation in addition to the line-haul rates.

For the Big Four the position is taken that because the tracks serving the St. Paul and Greeley quarries are owned by it; are used also by a third quarry; and are available to the public, it is its duty to maintain and operate such tracks, but that it has fully performed its duty toward complainants when it spots cars at junctions between its tracks and complainants' tracks. The western terminus of the tracks serving the St. Paul quarry is adjacent to a public highway and other shippers have on very infrequent occasions made shipments over these tracks. The situation with respect to the construction and ownership of the tracks is similar to that in *C., W. & V. Coal Co. v. C., B. & Q. R. R. Co.*, 23 I. C. C., 13. It is clear that the services accorded to complainants' similarly circumstanced competitors are greater than the services accorded to complainants for the same rates, and the Big Four is not excused from its legal duty of placing complainants upon an equality of rates and an equality of service with their similarly circumstanced competitors by its own voluntary act of constructing and maintaining the switch tracks serving such competitors' plants.

Upon the facts of record we find that the Big Four's practice in performing the switching service for the St. Paul and Greeley companies without additional charge, while refusing to perform such service for complainants or to make an allowance to them for the

actual cost of such service when performed by them, is unduly prejudicial to complainants.

Complainant Puttmann claims he was damaged on account of the undue prejudice to the extent of the actual cost of the spotting service performed by him since the discontinuance of the allowance estimated at \$5.445 per car. Complainant Westport Company discontinued operation in September, 1916, owing, it alleges, to the undue prejudice practiced by the Big Four. It contends that it was damaged by the undue prejudice to the extent of the actual cost of the spotting service performed by it since the discontinuance of the allowance, estimated at \$4.58 per car, plus a substantial amount for alleged depreciation in the value of its plant, loss of business, and loss of return upon its investment. It is not established, however, that the closing of its plant was due entirely, or even principally, to the discrimination. It was admitted that the competition of cement and other building materials has affected the stone business very greatly, and that the closing of the plant was not chargeable entirely to the Big Four's practices, that being, in the language of complainants' witness, "the straw that broke the camel's back." It was shown that a number of other quarries in the vicinity had closed prior to the discontinuance of the allowance in question, and that the St. Paul Company had discontinued operation for two or three years because its business was unprofitable. Nor was the damage to the extent of the cost of the service proved, the only evidence adduced being with respect to the estimated cost of the service, the number of shipments, and the existence of competition between complainants and the St. Paul and Greeley quarries. This is not sufficient to sustain a recovery. *Brooks Coal Co. v. Wabash R. R. Co.*, 39 I. C. C., 426; *Coal Switching Reparation Cases at Chicago*, 36 I. C. C., 226.

Complainants contend that they are entitled to reparation in the amount of the actual expense to them of the service of switching outbound cars of stone for the reason that the rates exacted since the discontinuance of the allowance were unreasonable under section 1. basing their allegation upon the ground that the discontinuance of the allowance resulted in increases in the rates which defendants have not justified and upon a comparison with the rates charged the St. Paul and Greeley companies and the services rendered thereunder.

In *Westport Stone Co. Case*, *supra*, we found that no obligation had been shown to rest upon the Big Four to switch cars beyond the junction points of the tracks of the complainants herein and the spurs maintained by that carrier, but that the obligation of switching cars between the junction points of the tracks of the complainant



No. 7541.  
**CHATTANOOGA SEWER PIPE & FIRE BRICK COMPANY**  
*v.*  
**SOUTHERN RAILWAY COMPANY ET AL.**

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*Submitted January 13, 1917. Decided February 5, 1918.*

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Transportation of sewer pipe, in carloads, from Chattanooga, Tenn., to points in North Carolina, and the intrastate transportation of the same commodity within North Carolina, *Held*, not shown to be performed under substantially similar transportation conditions. Finding that the North Carolina intrastate rates on that commodity for like distances subject complainant and its traffic and the city of Chattanooga to undue prejudice and disadvantage, and accord North Carolina shippers an undue preference and advantage, contained in the original report herein, 41 I. C. C., 406, reversed on further hearing. Complaint dismissed.

*B. R. Shepherd* for complainant.

*E. L. Travis* and *A. J. Maxwell* for North Carolina Corporation Commission, and *W. S. Creighton* for Pomona Terra Cotta Company, interveners.

*R. Walton Moore* and *Edward H. Hart* for defendants.

**REPORT OF THE COMMISSION ON FURTHER HEARING.**

**BY THE COMMISSION:**

In our original report, 41 I. C. C., 406, we found that complainant and the city of Chattanooga, Tenn., were subjected to undue prejudice and disadvantage by reason of the existing relation between defendants' rates on sewer pipe, in carloads, from Chattanooga to North Carolina points named in Hinton's tariff I. C. C. No. A-58, and their intrastate rates applicable on the same commodity for like distances within the state of North Carolina. The case was assigned for further hearing to determine what would be reasonable interstate rates. The North Carolina Corporation Commission and the Pomona Terra Cotta Company, a corporation manufacturing sewer pipe at Terra Cotta, just out of Greensboro, N. C., intervened in opposition to any order which might directly or indirectly result in increases in the North Carolina intrastate rates, and asked that the issue of undue prejudice be reconsidered. This request is not opposed by the other parties and the question of undue prejudice is now considered on the whole record made.

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certain modifications in the standard scale and required the observance of that scale on all single-line movements within the state. For a two-line movement the addition of 1 cent to the rates shown in the scale is permitted.

The general level of the present North Carolina intrastate rates on this commodity is slightly higher than the level of the intrastate rates on the same commodity in South Carolina, Georgia, and Alabama, and lower than the intrastate rates in Virginia and Tennessee. The rates from Chattanooga to many destinations in North Carolina are upon a basis little or no higher than the North Carolina basis, while to destinations generally in Georgia and to certain points in South Carolina, Alabama, Mississippi, and Florida the rates are upon a basis lower, and in some instances materially lower, than the rates in question. From Birmingham to Georgia destinations generally a materially lower basis than the North Carolina intrastate rates exists.

On behalf of defendants it was explained that complainant has two factories at Chattanooga, one of which is on the Tennessee side of the state line and the other within the Chattanooga switching limits on the Georgia side, and that in order to participate in the movement of Georgia traffic it has been necessary for the carriers to apply from Chattanooga substantially the Georgia basis; that the rates from Chattanooga to South Carolina have for a number of years been made with relation to rates from Macon to South Carolina points; and that the last-named rates have been held down by combination on Augusta, Ga., that point having also for a number of years been accorded the South Carolina basis to points within that state. Some of the points referred to are ports taking depressed rates. Water competition in some instances and in others the Ohio River adjustment are referred to as accounting for the low basis from Chattanooga to the Alabama points, and the low basis from Birmingham to Georgia points, it is said, grew out of equalizing those rates with the Chattanooga-Georgia rates.

Generally speaking, the rates from Chattanooga here assailed compare favorably with exhibited rates from Macon, Ga., to points in Alabama and Mississippi; from Owensboro, Ky., to points in Tennessee, Mississippi, and Alabama; from Chattanooga to various Mississippi and Tennessee points; from Texarkana, Ark-Tex., to Louisiana points; and, differences in transportation conditions considered, from Dennison and Black Fork, Ohio, to points in central freight association territory.

Apparently recognizing that a general readjustment of rates on sewer pipe was necessary in the south, various conferences have been held between representatives of the carriers and the sewer-pipe industries in Alabama, Georgia, and Tennessee, with a view of secur-



Intervenors now seek to show that transportation conditions affecting the rates in question are materially less favorable than those affecting the North Carolina intrastate rates. The greater portion of the distance in North Carolina is east of the Blue Ridge range, and it appears that only a relatively small per cent of the traffic under the state rates moves west thereof. For intervenors it is urged that the Southern's line, particularly from Morristown to Old Fort, N. C., is through the mountainous section, which makes construction and operation expensive and contributes a minimum of traffic. In our report in *Rates to North Carolina Points*, 29 I. C. C., 550, 556, which is cited, it is stated that the line through Asheville is operated through a mountainous and sparsely populated territory and is at a disadvantage in making rates to the territory east of Salisbury. It is contended that in that and other proceedings in which the carriers have sought authority to maintain rates from western points to certain North Carolina points contiguous to Virginia cities lower than to intermediate points, the Southern asked for relief because of the character of its line through the North Carolina mountains and the cost of maintenance and relatively low operating efficiency of that line.

In behalf of the Southern it is claimed that fourth section relief was sought in the proceedings referred to because the rates to certain North Carolina points contiguous to "Virginia cities" were depressed by reason of low rates which have for years been maintained from Ohio River crossings by trunk lines enjoying greater traffic density and more favorable operating and revenue conditions. Conceding the difficulties of transportation over the particular route through Asheville, and considering the whole adjustment of rates, defendant contends that there is no reason for a different basis from Chattanooga to North Carolina points than between points within that state, and refers to the action of the North Carolina Corporation Commission in 1914, in requiring the application of the same basis of rates on all lines of that carrier within the state.

All the circumstances considered, the present record does not disclose such substantial similarity of transportation conditions affecting the interstate rates under consideration and the North Carolina intrastate rates on sewer pipe as would warrant us in condemning the existing state rates. Our finding as to prejudice contained in the original report must, in the light of the present record, be reversed.

An order of dismissal will be entered.

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Southern Railway's tariff I. C. C. No. A-4844, in effect at the time this wheat moved, authorized milling in transit at Knoxville of grain from and through Louisville, Cincinnati, Ohio, and certain lower Ohio River crossings, the transit arrangement beginning with the movement of the grain from the points specifically named in said tariff. New Albany was not included among the designated points. That carriers' tariffs further provided for the collection of charges on the basis of the published rates to and from the transit point, and for the subsequent adjustment thereof on the basis of the through rate from the point where the transit arrangement begins to the destination of the product.

It is contended for complainant that inasmuch as the rates on grain from New Albany and Louisville to Knoxville were the same and as all grain moving through Louisville in connection with the Southern, over whose rails the grain was hauled out of Louisville, must pass through New Albany, it was not necessary to include New Albany with the other Ohio River gateways at which the transit arrangement would begin on grain to be milled at Knoxville. As New Albany was not specifically named in defendants' tariff as a point at which transportation over defendants' lines could begin in order to allow a transit arrangement at Knoxville on grain originating at Chicago, the adjustment of charges on these shipments was properly made on the basis of the rates to and from Louisville to the final destinations of the grain. On May 19, 1913, the tariff was amended to include New Albany as a point at which the transit arrangement might begin.

The complaint assails the charges applicable to the through shipments from Chicago to final destinations. The record does not disclose what carrier or carriers performed the transportation north of New Albany and no carrier operating from Chicago to New Albany was named as a party defendant. Following *Cairo Board of Trade v. C., C., C. & St. L. Ry. Co.*, 46 I. C. C., 343, the allegations of unreasonableness and unjust discrimination will not be considered.

An order dismissing the complaint will be entered.

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**ST. LOUIS &**

*Subm.*

**Claim for reparation  
Cl**

*A. J. Bolinger*  
*Thomas Bond*  
and its receivers,  
*Fred G. Wrig.*  
Company and its

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# THE GROUPING OF MONESSEN AND DONORA. IRON ORE RATE CASES.<sup>1</sup>

*Submitted November 7, 1917. Decided February 13, 1918.*

Upon reargument on the question of the grouping of Monessen and Donora; *Held*, That Monessen and Donora may not justly be grouped either with Johnstown or with Pittsburgh, but that, for the transportation of iron ore in carloads to these two furnace points from the lower Lake Erie ports, a reasonable and just rate for the line-haul service will be such as does not exceed by more than 6 cents per long ton the rate contemporaneously charged and assessed by the carriers to points in the Pittsburgh-Wheeling group.

*George B. Gordon, T. H. Burgess, W. A. Parker, Clyde Brown, and H. M. Griggs* for respondents.

*Wade H. Ellis, Challen B. Ellis, Willis F. McCook, and R. Golden Donaldson* for Pittsburgh Steel Company.

*Charles S. Belsterling, Charles MacVeagh, and C. A. Severance* for Carnegie Steel Company and others.

*Richard Jones, jr.*, for Youngstown Sheet & Tube Company and others.

## REPORT OF THE COMMISSION.

*HARLAN, Commissioner:*

In the original report in these cases, 41 I. C. C., 181, certain changes were suggested in the then existing grouping of destination points, among them being the transfer of the furnace points of Monessen and Donora from the Pittsburgh rate group to the Johnstown group; and the respondents were required to submit for the Commission's consideration and approval amended rates, charges, rules, and regulations in conformity with the findings and suggestions therein announced. Upon supplemental proceedings those findings and conclusions were reaffirmed and the adjustments presented by the carriers in compliance therewith were, with certain minor exceptions, approved. *Id.*, 44 I. C. C., 368. The question as to the grouping of Monessen and Donora was left open, however, pending examination upon additional briefs and further argument;

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<sup>1</sup> The proceeding embraces No. 6210, In the Matter of Rates on Iron Ore in Carloads from Lake Erie Ports to Points in Ohio, West Virginia, and Pennsylvania; and complaints in No. 4608, Youngstown Sheet & Tube Company et al. v. Lake Shore & Michigan Southern Railway Company et al.; No. 6026, Wheeling Steel & Iron Company v. Pennsylvania Company et al.; and No. 6027, Pittsburgh Steel Company v. Lake Shore & Michigan Southern Railway Company et al.



points of Leetonia, New Castle, and Dover, formerly taking the same rate on iron ore as the furnaces in the Youngstown group, should also be reinstated in that group; that every argument for retaining Donora and Monessen in the Pittsburgh-Wheeling group applies with equal force to Leetonia, New Castle, and Dover.

On the part of the carriers it is said that—

They can throw no additional light on the question which the Commission has reserved for argument in this further proceeding. If left to their own judgment they would not have disturbed the grouping of Donora and Monessen in the Pittsburgh district, and they do not oppose the retention of those points in the Pittsburgh district.

The carriers insist, however, that in the event Monessen and Donora are continued permanently in the Pittsburgh-Wheeling group, in which group they were temporarily placed pending a decision on the question of their proper grouping, the line-haul rates to that group should be increased by 4 cents per long ton in order to give to the carriers serving those two points the revenue that would accrue to them under the rates and grouping proposed in the original report.

All these arguments overlook the essential character of the investigation conducted by the Commission in these cases. The reasons for the investigation, its scope, and the objects sought to be accomplished, are stated at some length in the original report. 41 I. C. C., 181, 183-185. It was there explained that in various former proceedings particular features of the general ore rate structure were dealt with, and that the adjustments proposed or required in the rates, rules, regulations, or practices applicable at particular points, to particular groups, or within limited areas, had served only to develop other or collateral issues. Certain of these issues were pending before the Commission upon formal complaint; other complaints, as shown by the record, were in process of preparation when this general investigation was instituted. The investigation involved not only the reasonableness of the rates, rules, regulations, and practices applicable to shipments of iron ore, but also the inquiry whether the grouping of lake ports and destination points was reasonable and free from unlawful discriminations. The very thorough and complete record submitted seemed to indicate that the grouping of destination points was the underlying cause of many of the complaints and contentions. It appeared moreover that the groups then existing were established largely if not wholly upon the theory of equalizing the cost of pig-iron production in the several groups. Thus it was found that the Pittsburgh group, which originally embraced a few furnaces in and near the city of Pittsburgh, had been extended about 40 miles north along the Allegheny River and about 40 miles south along the Monon-

HIGHER THAN TO THE DISTRICTS AS WAS A DISADVANTAGE PREVIOUSLY, ALTHOUGH THE rates on ore are now the same to both districts. It appears also that the group rates on manufactured products from the Pittsburgh dis-

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strict do not apply on short-haul traffic, and that the grouping of origin points on outbound shipments of finished products depends largely upon the distance the shipments move. In other words, as pointed out in the original report, 41 I. C. C., 181, 214, the carriers have recognized distance as a factor in the rates and grouping and have not been able successfully to apply the theory of equalizing freight costs even on the raw materials used by the furnaces.

Much has been said upon brief and oral argument regarding the distance to Monessen as compared with the distance to points in the Pittsburgh and other districts. Upon the basis of short-line distance the plant of the Pittsburgh Steel Company at Monessen is 18 miles farther from the lake ports than Clairton, the most distant furnace point in the present Pittsburgh-Wheeling group, while it is only 9 miles and 11 miles, respectively, nearer to the lake than Josephine and Scottdale, furnace points in the present Johnstown group. Considering furnace points only and short-line distances only, the present Pittsburgh-Wheeling group extends from Allegheny and Pittsburgh to Clairton, which are respectively 125 and 147 miles from the nearest lake port, thus making a spread of 22 miles for the group; the present Johnstown group extends from Josephine, 174 miles from the lake, to Johnstown, which is 194 miles distant, making a spread of 20 miles for that group. To include Monessen in the Pittsburgh-Wheeling group would make that group 41 miles wide, and to include Monessen, 165 miles from the lake, and Donora, which is 163 miles, in the Johnstown group would increase the width of that group to 32 miles. Stated somewhat differently, Monessen is 40 miles farther from Lake Erie than Allegheny and Pittsburgh, the nearest points to the lake in the Pittsburgh-Wheeling group, and only 31 miles nearer the lake than Johnstown, the most distant point in the Johnstown group. On the basis of short-line distance, therefore, it would appear to be more logical, as proposed in the original report, to group Monessen and Donora with Johnstown than to group them with Pittsburgh.

A comparison of the distances to Donora and Monessen on the weighted average basis is somewhat more favorable to those points than a comparison on the basis of short-line distances. This is particularly true as to Monessen, to which point the bulk of the ore tonnage moves over the shortest and most direct route, while to some other points, such as Johnstown and Kittanning, there are no rates in effect over the shortest routes, and, so far as Johnstown is concerned, because of adverse operating conditions the shortest available route under published rates was not used. The weighted average distances for the year 1914 and for the six-year period 1909-1914 are shown in Table 6 of the original report. 41 I. C. C., 181, 229-231.

Such average proper basis groups or to certain destinations direct routes the use of facilities shipper was routes are re number of carriers the carriers routes, but support. If the routes were to be necessary location and rates thereto supplemental lake ports, a shipped from route to his furnace plant fit of its local principle of of rates. For average distance year to year subject to change.

One result former Valley furnace point higher than lake. The substance of the in the Pittsburgh

In *Lake Ontario* on lake cargo Lake Erie ports as does direction; the district on the districts is of the Pittsburgh being general

and Donora occupy about the same relative position with respect to the Pittsburgh-Wheeling group as the Connellsville coal district occupies with relation to the Pittsburgh coal district.

Upon a reconsideration of the entire record, and giving due weight to the facts and circumstances brought to our attention upon the supplemental proceedings, we are of the opinion, and so find, that Monessen and Donora may not justly be grouped either with Johnstown or with Pittsburgh, but that, for the transportation of iron ore in carloads to these two furnace points from the lower Lake Erie ports, a reasonable and just rate for the line-haul service will be such as does not exceed by more than 6 cents per long ton the rate contemporaneously charged and assessed by the carriers to points in the Pittsburgh-Wheeling group as defined in our order in these proceedings entered under date of April 25, 1917.

It will be so ordered.

McCHORD, *Commissioner*, dissents.

48 I. C. C.



St. Paul, Minneapolis, and Minnesota Transfer, Minn., and Omaha, Nebr., which are lower than the rates on like traffic to Dillon and Butte, Mont., and other intermediate points, was set for hearing with the complaints. Rates are stated in amounts per 100 pounds.

From the California refineries to St. Paul the short-line route, 2,154 miles in length, is over the lines of the Southern Pacific, Union Pacific, and Chicago & North Western railways through Ogden, Utah, and Omaha, over which route a rate on sugar of 55 cents, minimum 60,000 pounds, has been maintained for a number of years. Although that rate, according to the record, was established to permit the California refineries to meet the competition of refineries at New York, N. Y., and New Orleans, La., it nevertheless is blanketed over a distance of 1,597 miles, from Elko, Nev., on the west, to St. Paul on the east, and there is no departure from the long-and-short-haul rule of the fourth section over that route.

St. Paul also is reached from the California refineries over ocean-and-rail routes through Portland, Oreg., Seattle and Tacoma, Wash., hereinafter collectively called the north Pacific coast terminals. The movement east of these terminals is either directly over the lines of the Great Northern, the Northern Pacific, or the Chicago, Milwaukee & St. Paul railways, or over the lines of the first-mentioned two carriers from their junctions at Spokane, Wash., in connection with the Spokane, Portland & Seattle Railway. In addition, one of the northern rail lines, leading east from Portland, has joined the Southern Pacific Company in maintaining an all-rail route. To meet the competition of the short line through Ogden and Omaha the defendants operating the circuitous northern routes, both ocean and rail and all rail, have voluntarily applied the 55-cent rate to St. Paul for a number of years. Unlike the short line, however, these northern lines have not observed the long-and-short-haul rule of the fourth section, but have charged considerably higher rates to intermediate points.

With few exceptions, the Montana destinations concerned are directly intermediate to St. Paul over the rail lines leading from the north Pacific coast terminals. The rates applicable to these intermediate points, and to other points which may not be regarded as strictly intermediate, are, respectively, 93 cents, minimum 36,000 pounds, and 85 cents, minimum 60,000 pounds. Twin Bridges and Sheridan, Mont., branch-line points, are excepted from this application and take rates of 98 cents, minimum 36,000 pounds, and 90 cents, minimum 60,000 pounds, respectively.

The evidence was directed mainly to the 85-cent rate, which will be used as representative, particularly as the bulk of the sugar traffic from the California refineries to Montana points moves under that



to 16.48 mills; that from San Francisco to Fargo, N. Dak., a rate of 75.1 cents, and to Aberdeen, S. Dak., a rate of 62 cents, apply on sugar hauled through Montana, yielding substantially lower ton-mile and car-mile revenues and applicable, it is contended, to certain intermediate stations in the Dakotas; that during the fiscal year ended June 30, 1914, the average car-mile revenue on the California-Montana sugar traffic was substantially higher than defendants' average car-mile earnings on all traffic; that over the routes applying the sugar rate defendants charge no higher rates to intermediate Montana points, and in some instances maintain lower rates than are contemporaneously maintained to St. Paul on canned goods, including fruit, vegetables, and fish, on green and dried fruit, and on beans; that while the California-Montana fifth-class rate of \$1.05 is only 75 per cent of the California-Colorado common points fifth-class rate of \$1.40, the 85-cent rate is 154 per cent of the rate of 55 cents on sugar to the Colorado common points.

For defendants it is urged, among other things, that, like the California refineries, the refineries in Montana, Colorado, and Nebraska, in reaching the Missouri River, are affected by commercial competition with New York and New Orleans, which does not affect the Montana points here under consideration; and that the reasonableness of the California-Montana sugar rates may not be fairly tested by rates on sugar in territory in which there is pronounced dissimilarity in operating conditions, density of traffic, and competition between carriers. On their behalf a few rate comparisons are offered to support the reasonableness of the rate assailed, which they regard as a substantial concession in the light of the fifth-class basis which prevailed for a number of years.

The lower rates on sugar from California to the cited territories lying generally south and southeast of Montana are maintained with reference to the requirements of the fourth section, in some cases established upon our denial of relief in *Fourth Section Violations in Rates on Sugar*, 31 I. C. C., 511, and those to points in the Dakotas reflect the adjustment to St. Paul. Upon all the facts of record we are of opinion and find that the rates assailed have not been shown to be unreasonable *per se*.

The allegations of unjust discrimination and undue prejudice under sections 2 and 3 of the act, at the hearing first stated by counsel for complainants to have reference to the lower rates to the twin cities and Missouri River, and later to those to Aberdeen and Fargo, appear to rest wholly upon the relation of those rates to the rates under attack, and otherwise are unsupported by the evidence. We therefore find that those allegations have not been sustained. The complaints will be dismissed.



such intermediate points the rates on the basis of the same minimum weight shall not exceed by more than 10 cents the rates contemporaneously in effect to St. Paul, and that the rates to the intermediate points shall in no case exceed the lowest available combination. In the establishment of such rates to the Montana points the existing relationship in the rates respectively applicable in connection with the 60,000-pound and 36,000-pound minima should be maintained. The fourth section application of the Milwaukee was not heard, and no order against that carrier will be entered at this time, but it should adjust its rates in conformity with the conclusions herein.

Appropriate orders will be entered.

48 I. C. C.

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*Submitted*

Charges on mine ca  
found

*George W. Nil*  
*G. H. Baker fo*

BY THE COMMISS

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collected in the sum of \$6,010.33, based on an aggregate weight of 359,840 pounds and a rate of \$1.67 applicable on "mining cars and dump cars, or parts thereof, also turntables and portable track for same." On November 15, 1914, the application of this rate to Clarkdale was canceled. There is a straight overcharge of \$1 on car P. R. R. 356457, containing four cars, shipped March 8, 1914.

Two carloads shipped on February 18, 1914, under one bill of lading were billed at 69,740 pounds, and charges were collected on that weight. Two other carloads shipped on March 5, 1914, under one bill of lading were billed at 63,200 pounds, and charges were collected accordingly. These shipments were track scaled at Kansas City, Mo., and Argentine, Kans., respectively, and the weights thus obtained were 67,400 pounds on the first shipment and 61,600 pounds on the second. The defendants concede a total overcharge in weight on these two shipments of 3,940 pounds.

At the time the shipments moved the tariff carrying the \$1.67 rate also provided a carload rate of \$1.62 from and to the points in question over the route of movement under the caption "machinery, mining, straight or mixed carloads," on a list of articles which, it was stated on behalf of defendants, was intended to cover anything that would be used in a mine or smelter and included "cars, amalgam, ore or slag." Another item in the same tariff provided a rate of \$1.62 on "machinery and machines and parts thereof, taking class A rates, specified under the heading of 'machinery and machines,' in current western classification." The western classification in effect at the time carried "cars, amalgam, ore or slag" under the general heading "machinery and machines" and the subheading "mining machinery, consisting of," and rated them class A. These rates are still in effect.

The descriptions in connection with the \$1.62 rates were somewhat indefinite. We are of opinion and find that they properly may be construed as including the shipments here under consideration, and that the \$1.62 rates were legally applicable thereto. The tariff contained conflicting items, and shipper is entitled to the lower of conflicting rates. We further find that complainant made the shipments as described and paid and bore the charges thereon, herein found to have been illegal; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates legally applicable; and that it is entitled to reparation in the sum of \$244.75, with interest. This amount includes the overcharges above referred to.

An appropriate order will be entered.

No

BELZONI HARDWOOD

SOUTHERN RAILWAY COMPANY

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*Submitted November 2, 1914*

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Rates charged on hardwood lumber, Atlanta, Dalton, and Columbus, Georgia. Atlanta and Dalton found just and reasonable, unjustly discriminated against dismissed.

*E. Kauffman* for complainant  
*Claudian B. Northrop and A. B. Northrop*  
Company and Southern Railway Company

REPORT OF THE

DIVISION 3, COMMISSIONERS

BY DIVISION 3:

Complainant is a corporation Belzoni, Miss. By complaint, filed June 29, 1914, both dates inclusive, charges assessed on eight carloads to Atlanta, Dalton, and Columbus, Georgia, were found discriminatory, and unduly prejudicial. Reparation is assessed 14 cents. Reparation is assessed for the future. The Commission informally April 22, 1915, 100 pounds.

The shipments, consisting of 100 lines of the Southern Railway Company and Northern Railway, hereinafter called the Southern Railway, 1912, local distance class P rates to these points, the rates being 14 cents to Dalton, and 16 cents to Columbus. Lumber was changed from class P rates to Dalton and Atlanta to class P rates. Charges were collected on the class P rates. On February 1, 1915, a new rate was established to Columbus, and on February 1, 1915, a new rate was applicable to Atlanta and Dalton.

The rates charged and at present in effect, together with the ton-mile earnings thereunder, are shown below:

From Belzoni to—	Distance.	Rates charged.	Ton-mile earnings.	Present rates.	Ton-mile earnings.
	<i>Miles.</i>	<i>Cents.</i>	<i>Mills.</i>	<i>Cents.</i>	<i>Mills.</i>
Atlanta.....	435	17	7.816	16	7.356
Dalton.....	434	17	7.834	16	7.373
Columbus.....	551	20	7.259	16	5.808

The allegation of unjust discrimination is based upon the fact that although the rates from Itta Bena, Miss., a point intermediate Belzoni to Atlanta, and from Belzoni are generally the same to southeastern territory, the rate from Itta Bena to Atlanta was 14 cents, or 2 cents under the rate from Belzoni. The 16-cent rate has since been made applicable from Itta Bena. No evidence was introduced for complainant to show that any actual competition existed or now exists at Itta Bena.

As the rates charged and those at present in effect to Atlanta and Dalton represent increases since January 1, 1910, the burden is upon defendants to justify them.

Numerous rates on lumber were cited by both complainant and defendants, complainant showing lower and defendants higher rates between other points in the south and in central freight association and other territories.

The following is a summary of defendants' evidence in regard to the former class P rates on lumber from and to these points; Belzoni is located in what is known as the delta section of Mississippi, in which hardwood predominates. The lumber rates in Georgia, where practically nothing but pine is produced, were originally on the class O basis, the Railroad Commission of Georgia later reducing them to the class P basis. After this reduction took place within the state, the producers in the surrounding territory, desiring to market their pine lumber in competition with the Georgia producers, demanded rates on approximately the same basis as their competitors in Georgia. As a result the class P basis of rates has been gradually adopted throughout this pine-producing territory, and the effect has been felt in the rates from points as far distant as western Louisiana. These class P rates, it is stated, were designed to apply on very low-grade traffic, and as the tariffs of these carriers do not generally differentiate between hard and soft wood, the hardwood producers in the delta section had the benefit of these low competitive pine rates. Becoming convinced that the application of the class P rates on lumber from and to these points was too low, the rates were placed on the class M basis on November 1, 1912.



No. 9050.  
**ALTON MERCANTILE COMPANY**  
*v.*  
**ILLINOIS CENTRAL RAILROAD COMPANY ET AL**

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**PORTIONS OF FOURTH SECTION APPLICATIONS**  
**Nos. 627 AND 637.**

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*Submitted January 15, 1918. Decided February 9, 1918.*

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1. Rate on green coffee, in carloads, from New Orleans, La., and Galveston, Tex., to Enid, Okla., not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.
2. Fourth section relief denied.

*Guy S. Manatt and W. H. Hills* for complainant.

*R. R. Lethem* for St. Louis & San Francisco Railroad Company and its receivers.

**REPORT OF THE COMMISSION.**

**DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.**

**BY DIVISION 3:**

Complainant is a corporation engaged in the wholesale grocery business at Enid, Okla. By complaint filed April 22, 1916, as amended, it alleges that defendants' rate of 50 cents per 100 pounds on green coffee, in carloads, from New Orleans, La., and Galveston, Tex., to Enid, was and is unreasonable, unjustly discriminatory, unduly prejudicial, and in violation of the long-and-short haul rule of the fourth section. Reparation is asked on eight carloads shipped from New Orleans to Enid between September 10, 1915, and November 24, 1916, inclusive, and the establishment of a reasonable rate for the future. Rates are stated in cents per 100 pounds.

Enid is located in north central Oklahoma on the Atchison, Topeka & Santa Fe and the Chicago, Rock Island & Pacific railways and St. Louis & San Francisco Railroad, hereinafter respectively called Santa Fe, Rock Island, and Frisco.

It does not appear from the record that there is any movement of green coffee from Galveston to Enid, and the evidence introduced for complainant relates solely to the rate from New Orleans.

same on potatoes, cantaloupes, muskmel and rice; that, with few exceptions, commodity rates from Atlantic seaboard that, with slight variations, the rates Louis, Mo., Chicago, Ill., and so-called Mississippi River as are commodity r vegetables from Colorado common po City. Reference is also made to the fi on export grain to New Orleans from other points in Oklahoma. It does n is grouped with other points on some commodities it should be grouped on all commodities.

Complainant receives about 80 carloads of green coffee annually, mostly from New York, which it roasts and sells throughout Oklahoma and parts of Texas and Kansas in competition with roasters principally at Oklahoma City and Tulsa, Okla., and Arkansas City and Wichita, Kans. Its witness testified that the difference in rates was insufficient to affect competition seriously, but insisted in a general way that it operated to complainants' disadvantage.

The following table was prepared from an exhibit submitted on behalf of the Frisco, the only defendant represented at the hearing:

From New Orleans to—	Short-line distance.	Rate.	Ton-mile revenue.	Car-mile revenue. <sup>1</sup>
	<i>Miles.</i>	<i>Cents.</i>	<i>Mills.</i>	<i>Cents.</i>
Tulsa.....	681	42	12.3	18.5
Oklahoma City.....	712	46	12.9	19.4
Enid.....	798	50	12.5	18.3
Arkansas City.....	798	53	13.4	20.1
Wichita.....	844	53	12.6	18.9

<sup>1</sup> Based on 30,000 pounds, the prescribed minimum.

It was testified for the Frisco that green coffee does not move into Tulsa from New Orleans in carload quantities; that the alleged competition was considered by defendants before the rates were established; that the present rates are reasonable and equitable, distance considered; and that a reduction in the rate to Enid without corresponding changes in the rates to other points would result in inequalities. Numerous exhibits were also submitted showing that Enid has advantage over Arkansas City and Wichita by reason of the fact that it enjoys low outbound intrastate rates to Oklahoma points, but we are here concerned only with the inbound rates from New Orleans.

We find that the rates assailed are not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial, and the complaint will be dismissed.

Those portions of Fourth Section Applications Nos. 627 and 637, of F. A. Leland, agent, in which authority is sought to continue rates on green coffee, in carloads, from New Orleans and Galveston to Enid and Kingfisher lower than the rates contemporaneously maintained on like traffic from or to intermediate points, were heard with the complaint. No evidence was offered in support of these applications and they will be denied to the extent that they are concerned.

Appropriate orders will be entered.

48 I. C. C.

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Charges on oats in  
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*E. L. Benzel f*  
*R. R. Lethem*  
and its receivers

DIVISION 3.  
BY DIVISION 3:

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Albany, and the  
48 I. C. C.

obtain this rate shippers were required to execute and attach to the shipping order a certificate reading as follows:

Tender is hereby made to the St. Louis & San Francisco Railroad Company of a bill of lading, dated at \_\_\_\_\_, for car number \_\_\_\_\_, loaded with \_\_\_\_\_, destined to \_\_\_\_\_, for the purpose of securing reshipping rates on the commodity covered thereby as named in St. Louis & San Francisco Railroad tariff No. 2163-B (agent M. P. Washburn's I. C. C. No. 132). This tender is made with a specific guarantee on our part that the grain, grain products, or feed, or the articles used in the manufacture of the grain product or feed provided for in the said bill of lading originated beyond Memphis, Tenn.

Complainant did not comply with this requirement of the tariff. The rule was amended on February 1, 1916, so that shipments now moving on through bills of lading from points on the Frisco from which no through rates are in effect are accorded the reshipping rates from Memphis without the formality of a certificate. But the certificate is still required with respect to shipments from points on the Fort Worth & Rio Grande and the St. Louis, San Francisco & Texas.

Complainant contends that the total charges collected were unreasonable to the extent that the charges for the haul beyond Memphis exceeded the charges that would have accrued at the 6-cent rate, and that the tariff provision requiring the certificate referred to was illegal and unreasonable because the billing showed that the shipments originated beyond Memphis and enabled defendants readily to distinguish them from traffic originating at that point. The 20-cent component to Memphis is not attacked. Defendants' testimony is to the effect that the execution of a certificate in all cases is a necessary and reasonable requirement to prevent the application of the reshipping rates to local shipments.

We find that the charges assailed were unreasonable to the extent that the charges collected for the haul from Memphis to Mobile exceeded the charges that would have accrued at a rate of 6 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it was damaged to the extent of the difference between the charges paid and those that would have accrued on the basis herein found reasonable; and that it is entitled to reparation in the sum of \$35.20, with interest.

Defendants will be required to establish and maintain for the future for the transportation of oats in carloads moving over their lines on through bills of lading from Blanket through Memphis to Mobile, in connection with which no certificate such as the one above set forth is furnished at Memphis by the shipper, a rate not in excess of the aggregate of the contemporaneously maintained rate to Memphis and the reshipping rate beyond.

An appropriate order will be entered.

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. TEXAS & NE

*Submitte*

Rate on imported  
La., to Orang  
awarded.

*H. S. L'Homm*  
*F. L. Sheeks fo*

DIVISION 3,  
BY DIVISION 3:

Complainant  
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48 I. C. C.

When the shipments moved a commodity rate of 13.75 cents applied over the route of movement on imported blackstrap molasses, in tank-car loads, of a declared value of 8 cents or less per gallon. At the time of movement blackstrap molasses could not be purchased for 8 cents per gallon. A rate of 16.25 cents also applied on imported molasses, including edible molasses, regardless of value. But the latter rate did not apply to shipments in tank cars prior to November 1, 1916, on which date it was made applicable thereto.

For complainant it was observed that in *Louisiana Sugar Planters' Assn. v. I. C. R. R. Co.*, 31 I. C. C., 311, we held that the rates on blackstrap molasses, valued in excess of 8 cents per gallon, from New Orleans and points in that vicinity to St. Louis, Mo., and East St. Louis, Ill., should not exceed by more than 2 cents the rates on blackstrap molasses when of a declared value of 8 cents or less per gallon, and further that the domestic rate on blackstrap molasses should not exceed the import rate by more than 3 cents.

We find that the rate legally applicable was unreasonable to the extent that it exceeded 16.25 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable; and that it is entitled to reparation in the sum of \$360.47, with interest. The undercharge may be waived.

An order of reparation will be entered, but as the rate herein found reasonable has been in effect since November 1, 1916, no order for the future is necessary.

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PITTSBURGH

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*John S. Burch*  
*William W. C*  
Louis Railway C  
*Charles R. We*

DIVISION 3,  
BY DIVISION 3:

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to Huntington are \$2 and \$2.42, respectively. These rates have been in effect since October, 1914, and represent increases of 5 per cent under *The Five Per Cent case*, 31 I. C. C., 351. For complainant it is contended that the \$2.42 rate on old rails is unreasonable and discriminatory as compared with the \$2 rate on new rails. As the rate assailed represents an increase since January 1, 1910, the burden is on defendants to justify it.

Considerable evidence concerning the history of the rates on iron and steel articles in central freight association territory was introduced on behalf of defendants. It appears that for rate-making purposes in this territory iron and steel articles have been divided for many years into three principal groups according to their stage of manufacture, group 1 embracing pig iron and analogous articles; group 2, known as the billet group, semifinished materials which require reworking and a further process of manufacture before they are marketable; and group 3, finished or manufactured articles. The basing rates for the billet group are sixth class and for the finished article group fifth class. But commodity rates, in many instances lower than the class rates, apply generally on iron and steel articles in this territory. Among the articles included in the billet list are old rails and scrap iron and steel, the latter being defined as pieces of iron and steel having value for remelting purposes only. Certain grades of old rails may be suitable for relaying purposes; others may be so worn as to be no longer adapted to that use, but yet have value for rerolling and other purposes. The old rails shipped were of the latter character, and, while lower in value than relaying rails, do not come within the tariff description of scrap. It was stated for defendants that new rails, which as finished articles would normally fall within the third group, constitute the important exception to the classification principle embodied in the grouping of iron and steel articles. Since 1897, because of the fact that the carriers themselves were the principal users of new rails, the rates on this article have been fixed by a special committee of central freight association and trunk lines, without regarding relationship to the rates on other iron and steel articles. As a result, the present commodity rates on new rails, which are generally lower than sixth class, are in some instances the same, in others higher, and in still others lower, than the corresponding rates on old rails. On behalf of defendants it is urged that the old rails under consideration are essentially a semifinished product; that the general rate fabric on iron and steel articles presents a proper basis for determining the level of old rail rates rather than the basis of rates on new rails which is independent of and lower than that applied on other finished articles.

the part of the two groups of carriers to bring their rates more nearly to the same level and that a further decrease in the spread has been recently considered. Effective September 20, 1917, the sixth-class rate from Pittsburgh to Huntington was increased to 48 I. C. C.

14.5 cents per 100 pounds. No change was made in the sixth-class rate of 12.1 cents in the opposite direction.

Old rails are of considerably less value than new rails, and their value varies with their condition. We have repeatedly declined to sanction the principle that old or secondhand articles are necessarily entitled to lower rates than the same articles when new, or that value is the controlling element in rate making. *Minneapolis Traffic Asso. v. C. & N. W. Ry. Co.*, 23 I. C. C., 432; *Industrial Traffic Asso. v. N. Y. C. & H. R. R. Co.*, 37 I. C. C., 607. On the other hand, no sufficient reason has been suggested which would justify the maintenance of a higher rate on old rails than on new rails from Pittsburgh to Huntington. Certainly the manner in which such a rate situation was established can have no bearing on the propriety of the adjustment.

We find that defendants have not justified the rate assailed and that it is, and for the future will be, unduly prejudicial to the extent that it exceeds or may exceed the rate contemporaneously in effect on new steel rails, in carloads, from and to the same points.

From an exhibit filed by complainant subsequent to the hearing it appears that all of the shipments on which reparation is sought originated at points east and southeast of Pittsburgh. As the rates to Huntington from these points are not in issue in this proceeding complainant's claim for reparation will not be considered.

An appropriate order will be entered.

48 I. C. C.

## NATIONAL

## SOUTH

### *Submitted*

1. Charges on a car  
Philadelphia,  
illegal.
2. Shipment found to
3. Reparation award

*W. S. Phippen*  
*Alex. M. Bull*  
*George R. Allen*  
road Company an

### DIVISION 3, C BY DIVISION 3:

Complainant is  
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Yard, Va. Charge  
combination rate

Potomac Yard and 11.6 cents beyond. The correct charges over the route of movement were \$88.70 based on a joint rate of 25.5 cents, plus a \$2 diversion charge, so that the shipment was overcharged \$20.44. There was contemporaneously in effect from Andrews to Cooper's Point a joint rate of 23 cents, applicable over the Southern to Pinner's Point, Va.; New York, Philadelphia & Norfolk Railroad to Delmar, Del.; and the lines of the Pennsylvania system beyond. At the same time joint rates of 24½ cents applied from Andrews to North Philadelphia by way of Potomac Yard, and 22½ cents by way of Pinner's Point and the New York, Philadelphia & Norfolk. Complainants were entitled to have the shipment move over the cheapest route consistent with their instructions, which was by way of Pinner's Point and the New York, Philadelphia & Norfolk. Upon basis of the rate over that route and the \$2 diversion charge, the total charges would have been \$80.20, or \$8.50 less than those legally applicable over the route of movement.

We find that the Southern Railway Company misrouted the shipment; that complainants Ben C. Currie and James H. Campbell paid and bore the charges thereon; that they were damaged by the misrouting to the extent of the difference between the charges applicable over the route of movement and the charges that would have accrued had the shipment been forwarded over the route to which the 23-cent rate applied; and that they are entitled to reparation from the Southern Railway Company in the sum of \$8.50, with interest; also to reparation from all of the defendants in the sum of \$20.44, with interest, the amount of the overcharge above described.

An order will be entered accordingly.

48 I. C. C.

## SOUT

### *Submi*

Rate on whisky, in  
to Joplin, Mo.,  
dismissed.

*C. H. Rodeha*  
*Thomas Bond,*  
*Bull for St. L*  
*Henderson & St*  
*Company.*

### DIVISION 3,

BY DIVISION 3:

Complainants  
business at Jopl.  
engaged in the li  
Carthage, Mo.  
that the charges  
whisky, in wood  
delivered at Jop  
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The shipments  
of whisky, in wo  
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lines of various ~~connections to San Francisco, Mo., and other cities~~  
St. Louis & San Francisco Railroad to destination; except the ship-  
ment routed "M. K. & T. care of Frisco," which moved as routed be-

yond St. Louis. Charges were collected on all shipments except one at the legally applicable combination rate of 65.4 cents composed of the fourth-class rate of 18.4 cents, governed by exceptions to the official classification, from Louisville to St. Louis, and a commodity rate of 47 cents beyond. Charges were collected on the excepted shipment at the legally applicable combination rate of 64.5 cents, composed of the fourth-class rate of 17.5 cents to St. Louis, and the commodity rate of 47 cents beyond. This shipment was forwarded prior to October 26, 1914, on which date the component to St. Louis was increased from 17.5 cents to 18.4 cents following *The Five Per Cent Case*, 31 I. C. C., 351.

Complainants contend that the rates assailed were unreasonable to the extent that they exceeded a rate of 58.5 cents contemporaneously applicable on whisky, in wood or in glass, in mixed carloads, from Louisville by way of Thebes, Ill., to Kansas City, Mo., and observed as the maximum at intermediate points, including Harrisonville, Liberal, and Rich Hill, Mo. This rate was a combination composed of 20.5 cents to Thebes and 38 cents beyond. It did not apply by way of St. Louis. Joplin is not intermediate to Kansas City from either Thebes or St. Louis and does not take the Kansas City basis of rates from these points. At the time the shipments moved the combination rate from Louisville to Joplin based on Thebes was 68.5 cents. Complainants rely almost entirely upon the comparison with the rates to Harrisonville, Liberal, and Rich Hill. These points are north of Joplin and south of Kansas City; Harrisonville and Rich Hill are somewhat farther from Louisville than Joplin by way of Thebes and the St. Louis & San Francisco, and Liberal is slightly nearer. The short-line distance from Louisville to Joplin through St. Louis is 606 miles. The rate charged yielded ton-mile earnings of 2.16 cents, and car-mile earnings, based on the average loading, approximately 35,500 pounds, of 38.31 cents.

For defendants it was stated that the St. Louis-Kansas City rate was strongly influenced by rail and water competition; and that the Thebes rate, which was based on the St. Louis rate, was unreasonably low to apply to intermediate points, such as Harrisonville, Liberal, and Rich Hill. Also that for the year ended June 30, 1916, there was no carload movement of whisky to those points, and that it is quite unlikely that a carload shipment ever moved to them. On July 1, 1916, the rates of 38 cents from Thebes to those points were canceled, and the rates thereto from Louisville have since been the same as to Joplin. It was contended for defendants that the rate from St. Louis to Joplin is indirectly influenced by the low rate to Kansas City, and shown that the Joplin rate compared favorably with the rates from St. Louis to other Missouri points in the same



No. 9214.

PURITY ICE CREAM COMPANY ET AL.

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY  
ET AL.

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PORTIONS OF FOURTH SECTION APPLICATIONS

Nos. 799, 2471, 2659, 3010, 3739, 4218, AND 4220.

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*Submitted May 24, 1917. Decided February 9, 1918.*

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1. Rates on rock salt, in bulk, in carloads, from Lyons and Kanopolis, Kans., to Tulsa, Okla., found to have been and to be unreasonable. Reparation awarded.

2. Fourth section relief denied.

*E. N. Adams* for complainants.

*Thomas Bond* and *Robert N. Nash* for St. Louis & San Francisco Railroad Company and its receivers.

*J. C. Burnett* for Atchison, Topeka & San Fe Railway Co.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainants are J. B. Porter and H. M. White, copartners, trading as the Purity Ice Cream Company; O. U. Schlegel and L. E. Armentrout, copartners, trading as the Tulsa Feed Store; and O. U. Schlegel; all engaged in buying and selling crushed rock salt at Tulsa, Okla. By complaint, filed August 30, 1916, as amended, they allege that the former and present rates of 15 cents and 16.5 cents per 100 pounds, respectively, charged on numerous carloads of bulk salt shipped from Lyons and Kanopolis, Kans., to Tulsa on and after September 11, 1914, were and are unreasonable and in violation of sections 2 and 3 of the act to the extent that they exceeded and exceed a rate of 12 cents theretofore and subsequently maintained on like traffic from the same points of origin to Oklahoma City, Okla. Reparation is asked and the establishment of reasonable rates for the future. Rates are stated in cents per 100 pounds.

The present rates to Oklahoma City and Tulsa of 12 cents and 16.5 cents, respectively, minimum marked capacity of car, but not

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a good many other points in eastern Oklahoma, particularly smelter points, which use a great deal more salt than Tulsa; and that in *Morris & Co. v. U. P. R. R. Co.*, *supra*, stress was laid on the heavy loading to Oklahoma City, while to Tulsa the average loading is not above 30 tons. These considerations, in the light of the evidence before us, are not persuasive.

Upon all of the facts disclosed we find that the rates assailed were, are, and for the future will be, unreasonable to the extent that they exceeded or may exceed 12 cents per 100 pounds. We further find that complainants made the shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that they were damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable; and they are entitled to reparation, with interest. The exact amount of reparation due can not be determined on the present record, and complainants should prepare statements showing the details of their shipments in accordance with rule V of the Rules of Practice, which statements should be submitted to defendants for verification. Upon receipt of statements so prepared and verified we will consider the entry of an order awarding reparation.

Those portions of Fourth Section Applications Nos. 799 and 2471 of the St. Louis & San Francisco Railroad Company; No. 2659 of the Atchison, Topeka & Santa Fe Railway Company; No. 3010 of the Union Pacific Railroad Company; No. 3739 of the Missouri, Kansas & Texas Railway Company; and Nos. 4218, 4219, and 4220 of the Missouri Pacific Railway Company in which authority is sought to continue to charge on bulk salt, in carloads, from Lyons and Kanopolis to Tulsa, rates which are lower than the rates contemporaneously maintained on like traffic from or to intermediate points were heard with this complaint. It was explained for respondents that there are at present no fourth section departures at points intermediate to Tulsa from Lyons and Kanopolis, except such as may be brought about by a failure to publish rates on bulk salt to a number of points where salt is not at the present time received in carload lots, and these departures respondents propose to correct by the publication in their tariffs of the provision authorized by rule 77 of our Tariff Circular No. 18-A. Fourth section relief will be denied.

Appropriate orders will be entered.

48 I. C. C.

## MISSOURI

*Subm*

Charges on flour  
Mo.,

*F. Gordon W*  
*H. G. Herbel*

DIVISION 2

By DIVISION 3:

Complainant  
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Rates are stated

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rate in the opposite direction, subject to a minimum rate of one-half of class D. On March 5, 1911, prior to the return movement of these shipments, the rule was canceled. Under the authority of this rule defendants refunded to complainant on December 4, 1916, prior to the hearing, \$162.50 of the charges collected for the return movements, on basis of rates of 15 cents and 15.5 cents from Fort Smith and Branch, respectively. While 15 cents was one-half of the class D rate from Fort Smith, the class D rate from Branch to Lexington was 26 cents, and, on basis of the charges provided by the rule, there would still be an overcharge of \$7.50 on this shipment. On February 21, 1917, defendants made complainant a further payment of \$38.60 as interest on the overcharge up to August 19, 1915, the date of the appointment of the receivers of the Missouri Pacific. Complainant asks additional interest from August 19, 1915, to December 4, 1916.

At the hearing defendants' representative raised the point that the rule having been canceled prior to the return movement, the reduced rates were not applicable to these shipments. But at the time the shipments moved from Lexington defendants held themselves out to return such shipments within one year at reduced rates, and complainant was therefore entitled to the reduced rates so provided. *Interstate Remedy Co. v. American Express Co.*, 16 I. C. C., 436.

We declared in effect in *Conf. Ruling 489* that carriers should pay interest on all unsettled claims for overcharges from the date the charges are improperly collected until the overcharges are refunded. *International Lumber Co. v. C. N. Ry. Co.*, 40 I. C. C., 283. The charges applicable were provided for in a joint tariff concurred in by all defendants, and the fact that the overcharges were refunded subsequent to the appointment of receivers for the Missouri Pacific in our opinion does not affect the situation.

We find that the charges collected for the return movement from Branch to Lexington were illegal to the extent that they exceeded those that would have accrued at a rate of 13 cents per 100 pounds legally applicable. We further find that complainant made the shipments as described and paid and bore the charges thereon; and that it has been damaged and is entitled to reparation in the sum of \$7.50, with interest from December 27, 1911, and in the sum of \$12.59, the latter amount representing interest at the rate of 6 per cent per annum from August 19, 1915, to December 4, 1916, on the \$162.50 refunded on the date last named.

An order will be entered accordingly.

## ALGONITE

## ATCHISON, T

*Submi*

Rate on artificial s  
found t

*I. H. Gamble*  
*J. P. Wahle fo*  
*F. B. Clark fo*

DIVISION 3,  
By DIVISION 3:

Complainant  
sale of artificial  
ary 5, 1917, it a  
artificial molded  
in September an  
criminatory, and  
the charges that  
rate of 24 cents  
per 100 pounds.

The shipments  
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Cushing, Okla.;  
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above the minim  
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ing classification  
On November 23  
a reduction in th

It was testified for defendants that the road from Cushing to Drumright is part of the recently constructed line from Cushing to Jennings, Okla., a distance of 24 miles. At the time these shipments moved this road, which is now a part of the Santa Fe, was operated to Drumright and beyond by the Oil Fields & Santa Fe, a subsidiary of the Santa Fe. At the hearing counsel for the defendants named in the complaint stated that they had no objection to the Oil Fields & Santa Fe being considered a party defendant.

No evidence was offered in support of the allegations of unjust discrimination and undue prejudice. While the through rate was attacked, the evidence was directed principally against the 10-cent arbitrary. Based on the distance from Cushing to Drumright, 13.6 miles, the 10-cent rate yielded 14.7 cents per ton-mile. In comparison there were cited rates on the same commodity of 22.5 cents to Ringling and 22 cents to Lindsay, Okla., which rates are constructed by the use of the 20-cent basing rate applying to Oklahoma points generally, plus arbitraries of 2.5 cents to Ringling, for a distance of 30 miles, and 2 cents to Lindsay, for a distance of 26.4 miles. It was testified that the traffic conditions on the branch lines reaching these points were similar to those on the Oil Fields & Santa Fe between Cushing and Drumright. In view of these comparisons and the fact that a rate of 20 cents applies to numerous Oklahoma points in many instances for greater distances, complainant contends that even the present rate of 24 cents is comparatively high.

For defendants it was testified that the reduction in the arbitraries beyond Cushing was brought about largely by the adoption on this line of arbitraries more in harmony with the Santa Fe distance class rates applicable generally in Oklahoma, but that this action was not taken until after traffic conditions on the line had improved. It was urged for defendants that the arbitraries applicable at the time the shipments moved were reasonable in view of the fact that the line was newly constructed. No facts were submitted, however, setting forth what the difficulties were under which this line was operated, or what brought about the improved conditions.

We find that the rate assailed was unreasonable to the extent that it exceeded 24 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent that the charges collected exceeded the charges which would have accrued at the rate herein found reasonable; and that it is entitled to reparation in the sum of \$179.40, with interest.

An order awarding reparation will be entered, but as the rate herein found reasonable has been in effect for more than two years, no order for the future is necessary.



entire state of Illinois in order to prevent the spread of the foot-and-mouth disease. After the hay had remained in the cars on demurrage for several days complainant disposed of it at Chicago and released the equipment.

The shipments from Strader and Augusta were originally billed to Madison and later were ordered reconsigned to Chicago. Prior to the date of the reconsignment order an embargo had also been declared by the federal government against the interstate transportation of hay from the state of Wisconsin, and defendants, therefore, declined to comply with the reconsigning instructions. It was provided in connection with the embargo that hay cut and baled prior to August 1, 1914, and which had since been stored away from cattle, sheep, etc., might be shipped in interstate transportation without disinfection provided the owner filed an affidavit with the carrier at point of shipment certifying that the hay had been harvested and stored as stated. After the shipments had remained in the cars upon demurrage at Madison for several days complainants furnished the necessary affidavits, and they were promptly transported to Chicago.

The complaint herein is directed against the demurrage charges which accrued subsequent to the dates upon which the various shipments were ordered reconsigned. Although unreasonableness is alleged, the measure of the charges collected is not attacked, the real issue presented being with respect to the legality thereof. This general question is disposed of by *Union Hay Co. v. C., St. P., M. & O. Ry. Co.*, 45 I. C. C., 597, involving demurrage charges assessed on a carload of hay at Chicago under circumstances almost identical with those here presented. We there said:

Federal embargoes are declared in the interest of the general public and must be observed. By observing them the carrier incurs no liability to the shipper whose goods are embargoed. We find that the charges collected were lawful.

The complaint with respect to the \$2 reconsignment charge assessed at Madison on the shipment from Augusta is also with respect to the legality rather than the measure thereof. The tariffs provided that if reconsigning instructions were given before arrival of the shipment at the first destination or within 24 hours thereafter no extra charge would be made for the reconsignment, but that if the instructions were received subsequent to that time a charge of \$2 would be made. Complainant contends that the reconsigning instructions in connection with the shipment in question were given before its arrival at Madison, but this fact is not established of record.

We find that the charges assailed were lawful and that they are not shown to have been unreasonable.

An order dismissing the complaints will be entered.

EAC

GALVESTON, I

*Submit*

Local rates on lumber  
and eastern Texas  
not shown to be

*R. F. Vaughan*  
*H. M. Garwood*

DIVISION 3, C

BY DIVISION 3:

Complainant is  
Eagle Pass, Tex.  
that between Feb  
Eagle Pass varied  
Louisiana and east  
but that due to a  
tended destination  
ants' tariffs, and  
Reparation is asked

informally March 30, 1914. Rates are stated in cents per 100 pounds.

Prior to August 12, 1913, defendants' tariffs provided that on shipments of lumber from points on various lines in Texas and Louisiana billed to Eagle Pass on local rates, and reconsigned to points in Mexico within 90 days after date of original inbound paid freight bill, the through rate from point of origin to ultimate destination would be protected by refunding the difference between the local rate and the north of the Rio Grande proportion of the through rate. On the date mentioned the time during which such shipments might be held at Eagle Pass was increased to six months. Owing to revolutionary conditions in Mexico an embargo was placed on all shipments moving through Eagle Pass destined to points in Mexico, and complainant was therefore unable to reassign its shipments within six months. Charges were collected at the local rate of 21½ cents, legally applicable, except on one shipment from

Patterson, La., on which a rate of 27 cents was assessed. This rate was applicable on cypress lumber, while the rate on other kinds of lumber was 22½ cents. We are unable to determine the rate legally applicable on this shipment, as the record does not disclose the kind of lumber in the car. Had these shipments been reconsigned within the period provided by the tariffs, a proportional rate of 18 cents to Eagle Pass would have been the component north of the Rio Grande applicable to the through shipments, and complainant would have been entitled to a refund of the difference between the local and proportional rates. On June 18, 1915, the proportional rate from all points of origin to Eagle Pass was increased to 21¼ cents.

Complainant contends that as it was a physical impossibility to comply with the terms of defendants' tariffs and as all the lumber was forwarded from Eagle Pass into Mexico as soon as conditions improved, the rates assessed were unreasonable, and that defendants should be permitted to make reparation down to the basis of the 18-cent proportional rate. A willingness to make the refund desired was expressed for defendants.

Complainant introduced no evidence to show that the rates assailed were or are unreasonable *per se*. What it is in fact seeking is the retroactive application of a transit service. In *National Lumber & Creosoting Co. v. T. & Ft. S. Ry. Co.*, 42 I. C. C., 35, we considered a somewhat analogous situation and declined to apply an extension of a transit period retroactively. We have repeatedly refused to give retroactive effect to a transit service unless to remove an unlawful discrimination, and we are of the opinion that the facts in the instant case do not justify a different conclusion herein.

We find that the rates assailed are not shown to have been unreasonable, and an order dismissing the complaint will be entered.

48 I. C. C.

BOORMAN-

CHICAGO

*Sub*

Rate on wood  
Rouge, La.,  
awarded.

*J. W. Good*

*J. T. McGa*

DIVISION

BY DIVISION 1

Complainar  
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amended, it a  
defendants or  
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48 I. C. C.

The through rate in question is assailed chiefly because of the factor applicable from Minnesota Transfer to Gilman. For several years prior to July 22, 1912, tariffs of the Great Northern provided an arbitrary on wooden rollers of 3 cents over the corresponding rates on lumber from and to various points, while arbitraries of 1 cent over the rates on lumber were also provided on other lumber products, many of which were more completely manufactured than rollers and of a higher value. At the time the shipment moved the rate on lumber from Minnesota Transfer to Gilman was 60 cents. On November 15, 1915, the Great Northern established a proportional commodity rate of 63 cents, minimum 36,000 pounds, from Minnesota Transfer to Gilman, applicable on wooden rollers, in carloads, when originating at Baton Rouge. No change has been made in the component applicable from Baton Rouge to Minnesota Transfer. The Great Northern admitted that the through rate assailed was unreasonable to the extent that the component beyond Minnesota Transfer exceeded 63 cents.

The distance from Baton Rouge to Gilman over the route of movement is 2,569 miles; from Minnesota Transfer to Gilman, 1,081 miles. The present and former factors from Minnesota Transfer to Gilman yield and yielded, respectively, ton-mile earnings of 11.6 mills and 20.7 mills and, based on the carload minimum of 36,000 pounds, car-mile earnings of 20.9 cents and 37.2 cents, while the present and former through rates from Baton Rouge to Gilman yield and yielded, respectively, ton-mile earnings of 8.56 mills and 12.3 mills and car-mile earnings of 15.4 cents and 22.2 cents.

We find that the rate assailed was unreasonable to the extent that the component from Minnesota Transfer to Gilman exceeded 63 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable; and that it is entitled to reparation from the Great Northern Railway Company in the sum of \$176.40, with interest.

An order awarding reparation will be entered, but as the rate herein found reasonable has been in effect for over two years no order for the future is necessary.

48 I. C. C.

No. 9557.

CHRISTOPHER & SIMPSON IRON WORKS COMPANY

v.

PENNSYLVANIA RAILROAD COMPANY ET AL.

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*Submitted July 12, 1917. Decided February 9, 1918.*

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Charges on columns, beams, girders, and twisted bars, in mixed carloads, from Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., found to have been illegal and unreasonable. Reparation awarded.

*C. H. Rodehaver* for complainant.

*J. B. Coffey* for Atchison, Topeka & Santa Fe Railway Company.

*R. C. Trovillion* for Missouri, Kansas & Texas Railway Company and its receiver.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in the manufacture of structural iron and steel at St. Louis, Mo. By complaint, filed March 12, 1917, as amended, it alleges that defendants' charges on a shipment of structural iron and steel forwarded May 13, 1915, from Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, were unreasonable and illegal. Reparation is asked. Rates are stated in amounts per 100 pounds.

The shipment consisted of columns, beams, and girders, weighing a little less than 32,000 pounds, and 7,760 pounds of twisted bars. It moved to St. Louis in two cars and charges were assessed for this transportation at a rate of 23.6 cents, which is not attacked. It moved from St. Louis in one car over the Missouri, Kansas & Texas and the Atchison, Topeka & Santa Fe railways and charges aggregating \$642.70 were assessed, based on a commodity rate of \$1.02 on the columns, beams, and girders, minimum 50,000 pounds, and on 7,760 pounds of twisted bars at the fourth-class less-than-carload rate of \$1.71, governed by the western classification. A minimum of 40,000 pounds applied in connection with the \$1.02 rate, so that the shipment was overcharged in weight. At the time of movement "bars (with head, eye, or screw threads)" were included in the list of structural iron and steel articles to which the \$1.02 rate applied. The bars shipped were without head, eye, or screw threads, and complainant contends that the use of the parentheses in the quoted por-

tion of the commodity description signifies that it includes all kinds of bars including those without head, eye, or screw threads. We do not agree with this contention, and find that the rate charged on the bars was legally applicable.

On October 18, 1915, the description in connection with the \$1.02 rate was amended to include bars of the kind shipped, and on November 8, 1915, the rate was reduced to 95 cents. The record contains no justification for the charging of higher rates on the bar in question than applied on bars with head, eye, or screw threads and other structural iron and steel articles. It is contended for defendants that the \$1.02 rate is less than a reasonable rate; that it was established to so-called transcontinental intermountain territory following the so-called *Intermountain Cases*; and that the fifth-class rate, which would apply in the absence of a commodity rate, is \$1.43.

We find that the charges collected on the columns, beams, and girders were illegal to the extent that the charges for the movement from St. Louis to Prescott exceeded those that would have accrued at a rate of \$1.02 per 100 pounds, minimum 40,000 pounds; that the charges legally applicable to the entire shipment were unreasonable to the extent that the charges applicable from St. Louis to Prescott exceeded those that would have accrued at a rate of \$1.02 per 100 pounds, minimum 40,000 pounds; that complainant made the above-described shipment and paid and bore the charges thereon; that it has been damaged to the extent that the charges paid exceeded those that would have accrued on the basis herein found legal and reasonable; and that it is entitled to reparation from the Missouri, Kansas & Texas Railway Company and the Atchison, Topeka & Santa Fe Railway Company in the sum of \$234.70, with interest.

An order awarding reparation will be entered, but as a rate of \$1.02 or less has been applicable to bars of the kind here in question for more than two years, no order for the future is necessary.

## LOUISVILLE PO

### MICHIGAN CENTRAL

*Submitted July 3, 19*

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Charges on lumber, in carloads, from Detroit, Mich., to East Cambridge, Mass., found to have been legally applicable. Complaint dismissed.

*R. R. May* for complainant  
*Ernest S. Ballard* for Ne

#### REPORT

DIVISION 3, COMMISSION

By DIVISION 3:

Complainant is a corporation of Louisville, Ky. By complaint the charges collected on a carload of lumber, moved from Louisville to East Cambridge, Mass., in November, 1915, from Louisville to East Cambridge, Mass., are in question. A reduction in rate is asked. Rates are

During November and December, 1915, and January and February, 1916, complainant shipped numerous carloads of lumber from Louisville to Detroit, consigned to the Pacific Coast Lumber Company. They moved over the Louisville & Cincinnati, Ohio, and beyond over various roads, the Michigan Central Railroad being the delivering carrier. Charges were assessed thereon at a rate of 24.8 cents per hundred pounds of this lumber from different cars were rejected by the consignee and stored in a lumber yard at Detroit. On March 20, 1916, complainant loaded 69,900 pounds of lumber and delivered the car to the Michigan Central, consigned to East Cambridge. Complainant insisted that this shipment was in transit and asked for the application of a joint rate of 24.8 cents from Louisville to East Cambridge, plus a stop-off charge of \$3 per car, tendering the inbound billing covering 95,500 pounds of lumber which moved from Louisville on December 31, 1915, in P. R. R. car 500767. The Michigan Central insisted that the joint rate was inapplicable because the shipment was not handled as a transit shipment and did not consist wholly of lumber which originally moved into Detroit from Louisville. After some delay, during which demurrage in the sum of \$38 ac-

crued, the shipment was forwarded to East Cambridge on the basis of the local rate of 22.5 cents from Detroit. Complainant takes the position that the legal charges on the shipment were those that would have accrued at the joint rate of 24.8 cents from Louisville to East Cambridge and the actual weight of the shipment from Detroit to East Cambridge, plus the local rate from Louisville to Detroit on the excess weight. It asks reparation in the amount that the charges assessed, including the demurrage charges, exceeded those that would have accrued on the basis sought.

It was provided in the tariff of the Louisville & Nashville in which the joint rate of 24.8 cents was published and to which the lines moving the shipments to Detroit were parties, that lumber originating at Louisville, when routed by way of Cincinnati, could be stopped at Detroit for dressing, sorting, grading, mixing, and subsequent re-consigning, provided it was waybilled to the transit point at the local rates and was reforwarded over the Michigan Central within 90 days from date of arrival at the transit point; that when reforwarded correction of the inbound billing would be made to the basis of the published through rates from Louisville to ultimate destination, plus an additional charge of \$3 per car.

Complainant does not contend that the outbound shipment consisted of lumber moving into Detroit in P. R. R. car 500767, nor was it able to state definitely that all the lumber contained in the shipment from Detroit was part of the numerous shipments made during the period in question. It testified that certain of this lumber might have been taken from two or three cars that moved into Detroit over the Illinois Central Railroad over which the joint rate in question did not apply. The record does not show that the shipment from Detroit was made within 90 days after the arrival of the inbound shipments. Complainant stated that it shipped about 100 cars of lumber to the Packard Motor Car Company during this period, but bills of lading were introduced covering only 15 cars. It appears that the lumber from one of these cars could not have been used as it arrived in Detroit prior to December 20, 1915.

We are of the opinion and find that as it has not been established that the shipment contained only lumber forwarded from Louisville to Detroit and reshipped within 90 days after arrival at the latter point, it was not entitled to the joint rate sought, and that the charges collected were legally applicable. An order dismissing the complaint will be entered.

## PROCTER

### ALABAMA GREAT S

*Submitted September*

Rates on peanut oil, in tank-car  
Texas to Ivorydale, Ohio,  
awarded.

*Hugo Ignatius* for comp  
*Edw. D. Mohr* for Loui  
*D. Williams* for Missouri,  
souri, Kansas & Texas R  
ceivers; *Fred G. Wright*  
St. Louis, Iron Mountain  
Pacific Railway Company,  
for Southern Pacific lines

#### REPORT

DIVISION 3, COMMISSIONER  
BY DIVISION 3:

Complainant is a corpor  
and other products at Iv  
7, 1917, it alleges that the  
by defendants on 27 tan  
Marshall, Comanche, Lev  
Tex., to Ivorydale, betwee  
inclusive, were unreasonable  
that they exceeded the su  
Reparation is asked. Ivc  
Cincinnati, Ohio, and tak  
in cents per 100 pounds.

The product refined fro  
making substitutes for lar  
very similar in character  
shipments moved over del  
at combination rates of 5  
to St. Louis, Mo., and 10  
to December 21, 1916, and

plicable on and after that date. On August 21, 1915, defendants established on peanut oil, in tank-car loads, from these producing points, joint rates of 46 cents to Chicago, Ill., and 40 cents to St. Louis, Mo., and on December 21, 1916, 43.5 cents to Louisville, Ky. These rates were 5 cents over the rates on cottonseed oil from and to the same points. During the period of movement the rates on cottonseed oil from the points of origin to Cincinnati were 41.5 cents, and on March 7, 1917, the rates on peanut oil were reduced to 46.5 cents. At present the rates on cottonseed oil are 41 cents and on peanut oil 44 cents. Complainant competes with manufacturers of peanut oil products at St. Louis, Chicago, and Louisville, buying its raw material in the same territory and selling its manufactured product in the same markets.

Defendants presented no evidence and interposed no objection to the payment of the reparation asked.

We find that the rates assailed were unreasonable to the extent that they exceeded 46.5 cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined on the present record, and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

As rates equal to or less than those upon the basis of which reparation is granted have been in effect for nearly a year no order for the future is necessary.

**STI**  
**SOUTHERN**

*Submitted Septen*

1. Charges on machinery, i  
found to have been  
~~reasonable~~
2. Charges on scrap iron, in  
to have been illegal.

*Ernie Adamson for c*  
*Frank W. Gwathmey*

**REP**

**DIVISION 3, COMM**

**By DIVISION 3:**

Complainants are M. L. Bremen, J. B. Bremen, and Moses Stein, copartners, engaged in buying and selling scrap metal at Atlanta, Ga., under the name of the Stein Junk Company. By complaint, filed April 24, 1917, they allege that the charges collected by defendants for the transportation in March, 1916, of three carloads of scrap iron, one from Augusta, Ga., and two from Atlanta, to Harrisburg, Pa., were illegal and unreasonable. Reparation is asked. Rates are stated in cents per 100 pounds except as otherwise noted.

The shipment from Augusta moved over the Southern Railway to Potomac Yard, Va., and beyond over the Pennsylvania lines. The shipments from Atlanta moved over the Southern to Bristol, Tenn., Norfolk & Western Railway to Hagerstown Junction, Md., Western Maryland Railway to Shippensburg, Pa., and Philadelphia & Reading Railway to destination. All were originally billed as scrap iron, but after inspection by the carriers the billings were changed to read machinery, k. d., n. o. s. The Augusta shipment weighed 51,250 pounds, and charges were collected thereon in the sum of \$199.88, at a joint through sixth-class rate of 39 cents, governed by the southern classification. The Atlanta shipments aggregated 151,300 pounds, and charges were collected thereon in the sum of \$774.63, including a \$3 charge, evidently for car service, at a joint through sixth-class rate of 51 cents, governed by the southern classification. At the time these

shipments moved there were applicable from Augusta and Atlanta to Harrisburg over the routes of movement carload commodity rates of \$3.30 and \$3.80 per net ton, respectively, on "scrap iron and scrap steel, all kinds except old rails suitable for relaying purposes," and complainants contend that the shipments were entitled to those rates.

The car from Augusta contained discarded machinery from a cotton oil mill, consisting of two pieces constituting a rope transmission pulley, 20 oil mill crusher jaws, four pieces from oil presses, and a sash weight. One spoke in the pulley was cracked. The evidence as to its serviceability is conflicting. It was testified that the heavy castings, constituting the remainder of this shipment, could not be broken without the use of special machinery, such as is used at foundries for the purpose of preparing large castings for melting. Complainants testified that these castings were partly worn or broken and unserviceable, and the inspector who testified for defendants admitted that if the transmission pulley had been broken up he would have passed the carload as scrap. We are of the opinion that the articles comprising this shipment were scrap iron under the commodity description carried in the tariff.

The contents of the two cars from Atlanta consisted of a dismantled electric power unit, an engine and dynamo combined. One car contained only the fly wheel in six sections; the other, the engine base and various other parts. This unit, it was testified, had been replaced several years ago by a larger one and stored. Subsequently, the copper wire, brass, babbitt metal, and the steel driving shaft were removed, and the remainder sold to complainants as scrap iron. The power company from which complainants purchased this material testified that the shaft was sold and shipped separately, and that, whereas the original cost of the unit was \$25,000, they received less than \$5,000 for it. Copies of invoices submitted by complainants indicate that they received \$14 per ton for this material, delivered at Harrisburg. It was admitted, however, that the parts shipped were in themselves intact, and that at a considerable expense the unit could have been repaired and used as before. It is not established that these shipments in fact consisted of scrap iron or steel.

Defendants cited the provision in the southern classification withholding the scrap-iron ratings from old or secondhand machinery, engines, boilers, or similar articles unless broken up at point of shipment. The commodity rates on scrap iron and scrap steel were expressly excepted from the descriptions and rules in the southern classification and exceptions thereto.

We find that the charges collected on the shipments from Atlanta were legally applicable and that they are not shown to have been

traffic from its mill to the point of interchange with defendant's line at Wiggins, Miss., is unreasonable and in violation of section 15 of the act; *Held*, That in the absence of unjust discrimination defendant was under no obligation to perform the service requested and that defendant's refusal to make complainant an allowance for performing the service was not unlawful or unreasonable. Complaint dismissed.

*Green & Green* and *White & Ford* for complainant.  
*B. E. Eaton* and *R. Walton Moore* for defendant.

#### REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

BY DIVISION 3:

Complainant is a corporation engaged in lumber and naval stores near Wiggins, Miss., 23, 1916, it alleges, in substance, that defendant refused to make an allowance of \$3 per car on lumber moving between its plant and the point of interchange with defendant's line and for the weighing of such shipments, in violation of section 15 of the act. Defendant refused to make an allowance of \$3 per car on lumber moving within the statutory period.

Complainant's mill is reached by a siding 6,500 feet long, while its stills for manufacturing naval stores are located 9 miles from defendant's line. It owns and operates about 30 miles of track, of which only 5½ miles, including the tracks from the main line of defendant's road at Wiggins to the mill, an interchange track, a track scale track, and tracks running to different units of the mill, are here considered.

In 1902 an agreement was entered into which provided that complainant should construct at its own expense and on its own right of way sidetracks from defendant's main line at Wiggins to its mill and ship its products over defendant's line; and that defendant would reimburse complainant for the cost of the rails and angle bars used in constructing the sidetracks; maintain and keep the track in repair and do all necessary switching between the mill and defendant's main line at Wiggins free of charge. This arrangement continued in effect until September 14, 1904, when a new contract was entered into providing that complainant should do its own switching and weighing, furnish its own crew and equipment and pay defendant for the rails and angle bars; while defendant was to make complainant an allowance of \$2.50 per loaded car in lieu of performing the switching service. On February 15, 1906, this allowance was increased to \$5 per car. On August 23, 1906, defendant notified complainant that it could not longer make any switching allowance as it had been advised by counsel that to do so was unlawful, and thereafter declined to make any allowance therefor until September 11, 1916, on which date, following our fourth supplemental order in *The Tap Line Case*, 31 I. C. C., 490, it applied to us for permission to switch the cars from complainant's mill to the interchange point at Wiggins, or in lieu thereof to make complainant an allowance of \$2.50 per car. On December 4, 1916, we approved an allowance of \$2.50 per car on all carload shipments of lumber switched on and after September 11, 1916, the date of the application. The allowance of \$3 sought by complainant is the maximum amount fixed by us in our second supplemental order in *The Tap Line Case, supra*, for switching cars over 1 mile and less than 3 miles.

It is not claimed that complainant's line is a common carrier. The evidence shows that its mill is located a greater distance from defendant's main line than is any other lumber mill not served by a recognized tap line. Most of the plants on defendant's line are located very close to its tracks so that practically no switching service is required, and it does not appear that any allowances are paid to any other shippers located along defendant's line. For complainant it is admitted that the switching service is different from that at any other plant along defendant's line or in the same general territory.

It is observed from all the evidence and examination of the defendant's account that no substantial distance is shown.

Track scale installed by the defendant. The record document, and is for complainant's preference.

Upon all the evidence in the absence of any obligation to the complainant; allowance for the same.

An order of the court.  
48 L. C. C.

**INVESTIGATION AND SUSPENSION DOCKET No. 1096.**  
**WOODEN PACKAGE RATING.**

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*Submitted February 6, 1918. Decided February 19, 1918.*

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1. Proposed class C rating on wooden pails, tubs other than butter tubs, and kits, and on fiber board pails, in straight or mixed carloads, or when mixed with wooden barrels, kegs, well buckets, and drums, in western trunk line territory, found justified.
2. Proposed increased rating on butter tubs found not justified. Suspended schedules ordered canceled.

*A. F. Cleveland* for Chicago & North Western Railway Company; *C. A. Lahey* for Chicago, Milwaukee & St. Paul Railway Company; *Jas. B. Coffey* for Atchison, Topeka & Santa Fe Railway Company and other lines in western trunk line territory; and *Robert Dunlap* and *T. J. Norton* for all the respondents.

*George B. Webster* for Associated Cooperage Industries of America; *J. H. Henderson* for state of Iowa and Iowa shippers; *Oliver E. Sweet* for Board of Railroad Commissioners of South Dakota; *F. J. Herrick* for Turner Creamery Company; and *C. E. Childe* for Traffic Bureau of the Sioux City Commercial Club, protestants.

*J. P. Strange* for John Strange Pail Company, intervener.

**REPORT OF THE COMMISSION.**

**DIVISION 2, COMMISSIONERS CLARK, MEYER, DANIELS, AND WOOLLEY.**

By schedules, filed to take effect June 1, 1917, the carriers in western trunk line territory propose to change their exception to western classification ratings by increasing the rating on wooden pails, wooden tubs, including butter tubs, and wooden kits, in straight or mixed carloads, or when mixed with wooden barrels, kegs, well buckets, and drums, from class D to class C and to include with the articles named, fiber board pails, now rated at fourth class in the western classification. Upon protests by the Boards of Railroad Commissioners of the states of Iowa and South Dakota, the Associated Cooperage Industries of America, and various traffic bureaus and individual shippers, the schedules were suspended until September 29, 1917, and later until March 29, 1918. The John Strange Pail Company, of Menasha, Wis., intervened at the hearing in sup-

port of the proposal to rate fiber pails the same as wooden pails. Rates are stated in cents per 100 pounds.

In the western classification wooden pails are rated at fourth class, minimum 15,000 pounds; wooden tubs at fourth class, minimum 16,000 pounds; and wooden kits at third class, minimum 12,000 pounds, all subject to rule 6-B. In 1896 respondents, by exception to the western classification, established the present class D rating on wooden pails, tubs, and kits, with a minimum of 24,000 pounds, to enable manufacturers in western trunk line territory to meet competition, and the same has remained in effect since that time, except for a brief period in 1912, when the western classification basis was restored but almost immediately abandoned.

In support of their contention that the present rates on wooden pails, tubs, and kits, hereinafter called woodenware, are unduly low, respondents show, among other things, that woodenware is a light loading commodity, that large cars are usually required in order to load to the minimum of 24,000 pounds, and that the carriers are frequently forced to furnish two smaller cars in lieu of one large car ordered.

Respondents submit statements of the car-mile earnings on woodenware from Elgin, Ill., and Menasha, Wis., two of the principal points of production, to various points in western trunk line territory, based on an average weight of 24,000 pounds, as shown by the following table:

*Comparison of car-mile earnings on woodenware from Elgin, Ill., and Menasha, Wis., under the present and proposed rates.*

To—	From Elgin, Ill.					From Menasha, Wis.				
	Dis- tance.	Rates per 100 pounds.		Average car- mile earnings.		Dis- tance.	Rates per 100 pounds.		Average car- mile earnings.	
		Pres- ent class D.	Pro- posed class C.	Pres- ent class D.	Pro- posed class C.		Pres- ent class D.	Pro- posed class C.	Pres- ent class D.	Pro- posed class C.
	Miles.	Cents.	Cents.	Cents.	Cents.	Miles.	Cents.	Cents.	Cents.	Cents.
Marshalltown, Iowa...	271	13	16	11.51	14.17	399	13	16	7.82	9.62
Sioux City, Iowa.....	496	18.5	22	8.95	10.65	560	18.5	22	7.92	9.42
Sioux Falls, S. Dak....	611	19	23	7.46	9.03	531	19	23	8.58	10.47
St. Paul, Minn.....	372	14	17	9.03	10.97	273	14	17	12.31	14.95
Duluth, Minn.....	443	17	19	9.21	10.29	.....	.....	.....	.....	.....
Aberdeen, S. Dak.....	682	25	32	8.80	11.26	661	25	32	9.08	11.62
Watertown, S. Dak....	575	23	28	9.60	11.69	548	23	28	10.07	12.26
Omaha, Nebr.....	470	18.5	22	9.45	11.23	619	18.5	22	7.17	8.53
Mitchell, S. Dak.....	604	24	32	9.53	12.72	603	24	32	9.55	12.73
St. Louis, Mo.....	.....	.....	.....	.....	.....	461	15	18	7.81	9.37
Cedar Rapids, Iowa...	.....	.....	.....	.....	.....	338	12	14	8.52	9.94

Respondents also show that, based on the minimum weight of 24,000 pounds, the present rates to Kansas City, Mo., from Chicago, Ill., and Menasha, yield car-mile earnings of 7 and 9 cents, respec-  
48 I. C. C.

tively, and that the proposed rates would yield car-mile earnings of 8.5 and 11.6 cents. Numerous comparisons were submitted by respondents to show that the proposed class C rates are as low or lower than the rates on other commodities made from wood, such as cheese boxes, incubators, churns, bowls, and firkins, some of which resemble wooden pails, tubs, and kits in respect of their loading qualities, value, and so forth. The proposed rates and car-mile earnings therefrom are shown to be lower than the rates on excelsior and the car-mile earnings on lumber from the same or similarly situated points of origin. The proposed rates from Minneapolis, Minn., Elgin, and Menasha to various points in western trunk line territory are compared with the rates for corresponding distances under the distance class scales prescribed by the Commission in *C. F. A. Class Scale Case*, 45 I. C. C., 254; with the rates from Bay City and other points in Michigan to various points in central freight association territory; and with the rates found reasonable by the Commission in *Menasha Wooden Ware Co. v. C. & N. W. Ry. Co.*, 33 I. C. C., 563, for hauls of corresponding distances from Menasha to points in central freight association territory. From these comparisons it appears that the rates on woodenware are generally higher in central freight association territory than in western trunk line territory, despite the greater traffic density in the former, but the minimum weight on woodenware is only 16,000 pounds in central freight association territory and there is not so large a movement in that territory.

In *Menasha Wooden Ware Co. v. C. & N. W. Ry. Co.*, *supra*, the rates on woodenware from Menasha to various central freight association points were attacked as unreasonable. The Commission found that the rates and earnings therefrom, as shown in the following table, were not unreasonable:

From Menasha to—	Distance.	Rate.	Revenue per ton- mile.	Revenue per car- mile. <sup>1</sup>
	<i>Miles.</i>	<i>Cents.</i>	<i>Mills.</i>	<i>Cents.</i>
Toledo, Ohio.....	422	24.5	12	14.4
Mansfield, Ohio.....	470	25.5	10	12
Tiffin, Ohio.....	431	24.5	11	13.2
Zanesville, Ohio.....	536	27.5	10	12
Buffalo, N. Y.....	701	26.5	7.6	9
Erie, Pa.....	612	26.5	8.6	10.3
Petrolia, Pa.....	665	29.5	8.8	10.5
Fort Wayne, Ind.....	325	22	13	15.6
Sidney, Ohio.....	425	24.5	12	13.2
Cleveland, Ohio.....	516	26.5	10	12
Marion, Ohio.....	447	24.5	11	13.2
Sandusky, Ohio.....	456	25.5	11	12
Middlefield, Ohio.....	593	26.5	9	11.1
Gardenville, N. Y.....	696	26.5	7.6	9.1

<sup>1</sup> Per car-mile earnings computed upon specific shipments involved in complaint and for distances over specific routes.

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ear-mile earnings of 24.12 cents. Comparison is made with such commodities as beer barrels and kegs, iron oil barrels and drums, silo material, wooden cisterns, tanks and vats, wood casks and cheese box

stuff, all of which are rated at class D, and with box lumber and shooks, beehives, knocked down, in bundles, egg-case material, heading, hoops, staves, silo stock, tank material, and vat material, all of which take the lumber rate. A statement prepared by the Chicago & North Western Railway was submitted, from which it appears that, for the year ended June 30, 1916, its average loading of woodenware was 14.9 tons, the average haul 215 miles, and the average earnings 9.5 mills per ton-mile and 12.98 cents per car-mile.

While respondents are proposing to increase their interstate rates on woodenware from class D to class C, it appears that their intrastate rates in the states of Iowa, Minnesota, and South Dakota will remain on the class D basis and it is not shown that any effort has been or will be made to place such intrastate rates on the class C basis. Protestants urge that if the interstate rates are increased to class C discrimination would result against such points as Sioux Falls, S. Dak., a creamery point in competition with Sioux City, Iowa, and Pipestone, Minn. Sioux Falls would be compelled to pay class C rates on butter tubs from Fort Dodge and Mankato while its competitors at Sioux City would only have to pay the class D rate from Fort Dodge and other Iowa points, and its competitors at Pipestone would only pay class D from Mankato and other Minnesota points.

It is further contended by protestants that discrimination will result if the proposed increase in rating is made effective because of the existence of interstate commodity rates which will remain in effect on woodenware between various points, which are as low and in some instances lower than the class D rates. Such rates are shown to be published from Fort Dodge and Storm Lake, Iowa, to numerous points in Minnesota; from Keokuk, Iowa, to several points in Missouri; and from Alexandria, Mo., to points in Iowa.

It is further contended by protestants that discrimination will result if the increase in rating is approved because of the irregularity of the spread between the class D and class C rates, which prevents the increase from being uniform to the destination points. For example, the mileage from Fort Dodge to Arlington and Mitchell, S. Dak., is substantially the same and there is no material difference in operating, competitive, or other conditions, yet the advance to Mitchell would be 10 cents and to Arlington 3½ cents.

#### CONCLUSIONS AND RECOMMENDATIONS.

Upon consideration of the different questions presented in this case these facts appear to be established:

(1) That fiber pails should take the same rating as wooden pails to which they are analogous from a transportation standpoint and with which they are to some extent competitive.

(2) That the earnings on woodenware under the present class D rating are, in view of the character of the articles and the transportation service given and required, lower than they might reasonably be, and that respondents have justified the proposed application of class C rating.

With respect to the alleged discriminations which the protestants contend would be created by the application of the class C rating, it is to be observed:

(1) With respect to the differences that would be created between the level of the state and interstate rates, the instances cited do not clearly indicate the extent of such discriminations or whether they would result in unlawful prejudice and disadvantage to shippers in interstate commerce.

(2) The maintenance of certain interstate commodity rates on woodenware between some points lower than the class-rate basis applicable between other points, of which instances are cited in the record, is a matter largely within the control of the respondents, and in establishing the class C basis they should not permit undue discrimination to be continued or to result therefrom. Any such discriminations that appear prejudicial may be brought to the Commission's attention upon complaint.

(3) There is no issue before the Commission involving the spread between class rates based upon fixed classification ratings. The classification basis is one fixed for general application in western trunk line territory and is presumed to be reasonable and with ratings fairly related until the contrary is shown. If undue prejudice does result because the changed ratings result in greater increases in rates to some points than to others the fact must be established after a more detailed investigation and upon a more comprehensive record than is possible under the scope of the present case.

It is therefore recommended that the order of suspension be vacated and that the respondents give close consideration to the matter of any prejudicial discriminations that might flow from the establishment of the class C rating.

CLARK, *Commissioner*:

The foregoing proposed report of the attorney-examiner was served upon the parties. Exceptions thereto were filed by certain protestants and orally argued before the Commission. The examiner's statement of the case is approved and adopted, as is also the finding that fiber pails should be rated the same as wooden pails. Except in so far as it applies to butter tubs, the finding that the increased rating on woodenware has been justified is approved and adopted. As to butter tubs we conclude and find that the proposed increased rating has not been justified.

Butter tubs are more nearly analogous to cooperage than to wooden or fiber pails, tubs, or other articles commonly known as woodenware. They are manufactured from slack barrel staves sawed in two at the bilge, set-up, and secured with wooden hoops as are ordinary slack barrels. They are shipped nested and therefore load more heavily than do the barrels, upon which respondents have continued in effect the class D rating, with a minimum of 14,000 pounds for cars 36 feet in length and proportionately higher minima for longer cars. A car of standard size can readily be loaded with butter tubs to or in excess of the minimum of 24,000 pounds.

Respondent's comparisons of rates from Elgin and Menasha are not fairly representative, because no butter tubs are manufactured at Menasha. The rates cited to western trunk line territory are for long hauls. They are lower than the general level of rates applying from other manufacturing points. From Menasha to central freight association territory the carload minimum is only 16,000 pounds. It appears that most of the butter tubs used in the states of Iowa, Minnesota, and South Dakota move from Fort Dodge, Anamosa, and Storm Lake, Iowa, Minneapolis and Mankato, Minn., and other short-haul points, under rates which yield average earnings of about 20 cents per car-mile.

We are not impressed with complainant's argument that butter tubs afford the carriers three movements. Butter tubs do not differ in this regard from many, if not most, manufactured articles.

The suspended schedules will be ordered canceled. The increased ratings found justified may be made effective upon not less than five days' notice.

48 I. C. C.

## HONAKER LUMB

### NORFOLK & W

#### *Submitted*

1. Rates on lumber, carload sections in Virginia, New Jersey, New Rhode Island, for extent that rates the rates on oak,
2. Carload rates from the spruce, and hemlock with either destination; remove
3. Except for the unjust rates on different & Western and it not unduly prejudicial to W. Va., distribution
4. Except for the unjust rates on different to Reading and Philadelphia in central Pennsylvania

*Charles Conradis and J. W. M. Stewart* company, successor of the *R. Walton Moore* Eastern Railway Company *Frederic L. Ballard* and Valley Railroad Company; and G

I

#### DANIELS, Commissioner

The complainants in the production of the manufacture of fuel at Williamsport, W. Lewisburg, Pa. The

east of Norton, Va., and Bristol, Va.-Tenn., and east and southeast of Wharncliffe, W. Va., points on the Norfolk & Western. Just north of this territory lies a competitive lumber-producing territory in West Virginia served by the lines of the Chesapeake & Ohio, the Baltimore & Ohio, and the Western Maryland. The rates on lumber to northeastern destinations are materially lower from this latter territory than from the former territory to the same destinations. Complainants contend that the rates should be substantially the same. This, in general, is the main ground of complaint, although other allegations raise incidental issues.

The originating territory is in southwestern Virginia and southern West Virginia. The destination points specified in the complaint are the central Pennsylvania points mentioned, Reading and Philadelphia, Pa.; Baltimore, Md.; and New York, N. Y., but the rates to related and intermediate points in the states of Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, and Massachusetts are also in issue. From the originating territory to the consuming territory complainants allege the rates on lumber, in carloads, to be (1) intrinsically unreasonable; (2) unjustly discriminatory, because of the maintenance of higher rates on lumber made from certain woods, other than oak, hemlock, and spruce, than on lumber manufactured from those kinds of wood; (3) unduly prejudicial, as compared with the rates applicable for the transportation of lumber from West Virginia points to the same destinations; and (4), unduly prejudicial, in that the rates from the originating territory to the central Pennsylvania points are higher than the rates from that territory to Reading and Philadelphia, Pa.

The points of origin named in the complaint are Honaker, Doran, Atkins, Glamorgan, Marion, Amburg, Fairwood, and Konnarock, Va., and Waiteville, Rift, Herndon, and Maben, W. Va. Honaker and Doran are on the Clinch Valley division, running from Bluefield, W. Va., to Norton, of the Norfolk & Western. Atkins is 100 miles west of Roanoke on the Bristol branch of the same road. Glamorgan is on the Interstate Railroad, 6 miles from Norton. Amburg is on the Marion & Rye Valley Railway, 2 miles from Marion, a junction with the Norfolk & Western. Fairwood is on the Virginia Southern Railroad, 30 miles south of Marion. Konnarock is on the Virginia-Carolina Railway, 30 miles south of Abingdon, Va., a junction with the Bristol branch of the Norfolk & Western, 146 miles west of Roanoke. Rift is on the Dry Fork branch of the Norfolk & Western, and Waiteville is on the Potts Valley branch of that road, the connection for traffic from the latter point being Potts Valley Junction, 66 miles from Roanoke. Herndon and Maben are on the Virginian Railway, 125 and 139 miles, respectively, west of Roanoke.

Practically all of the traffic moves over the Shenandoah division or branch of the Norfolk & Western from Roanoke to Hagerstown, Md., a distance of 240 miles. No one of the points of origin is on the main line of the Norfolk & Western from Columbus, Ohio, to Norfolk, Va. The distances from the points of origin to Hagerstown range from 332 miles from Waiteville to 425 miles from Glamorgan. The haul over the main line of the Norfolk & Western from the points of origin to Hagerstown varies from 43 to 108 miles, dependent upon the junction point at which it receives the traffic. Honaker will be used as representative of all the points of origin, and rates will be stated in amounts per 100 pounds.

The destination market points in central Pennsylvania named in the complaint are located either on the lines of the Pennsylvania, the Philadelphia & Reading, or both. Williamsport is typical of such points, as, generally speaking, the rates are grouped as to these destinations. Although the evidence refers to points of destination in New York, such as Buffalo, Rochester, Albany, and New York, we may consider New York as representative of the rates to the other New York points, and Boston, Mass., as typical of the New England situation.

The producing points of origin alleged to be unduly preferred, located on the lines of the Chesapeake & Ohio, Baltimore & Ohio, and Western Maryland in West Virginia, are generally in that territory of which Huntington may be taken, so far as the present complaint is concerned, as the western boundary, and Elkins as the eastern boundary. Richwood is at the terminus of that branch of the Baltimore & Ohio which runs southerly from Clarksburg, W. Va., and is in the territory between Huntington and Elkins.

The rates from points on the Chesapeake & Ohio, Baltimore & Ohio, and Western Maryland, hereinafter called the Charleston district, to the destinations here considered are the same on all kinds of lumber. Lumber produced from oak, hemlock, and spruce takes rates from Honaker which are generally about 2 cents lower than the rates on lumber produced from other woods. This difference in rates, however, does not apply to New York City.

The rates from the Charleston district to all destinations are materially lower than the rates on any kind of lumber from Honaker to the same destinations. This disparity of rates, which is the gist of the complaint, may be illustrated by citing the rate on oak, hemlock, and spruce lumber from Honaker to Milton, Pa., 553 miles, of 25.7 cents; on other kinds of lumber, 27.8 cents. The rate on all kinds of lumber from Charleston to Sunbury, Pa., 563 miles, is 19.6 cents.

The rates from Honaker, for practically equal distances, are 6.1 and 8.2 cents higher than the rates from Charleston.

The rates from Honaker on oak, hemlock, and spruce lumber to Baltimore, Philadelphia, New York, and Boston are, respectively, 18.4, 20.5, 26.3, and 28.9 cents, on other kinds of lumber 20.5, 22.6, 26.3, and 31; the rates from the Charleston district are, respectively, 19.6, 20.6, 22.6, and 24.6. In other words, the usual differentials to eastern destinations on traffic from the west to the ports are observed from the Charleston district, but not from the territory of origin where complainants' mills are located.

The rates from Honaker to Reading and Philadelphia are 20.5 cents on oak, hemlock, and spruce lumber; 22.6 cents on other kinds, or 5.2 cents in each instance under the rates from Honaker to Williamsport.

Briefly, complainants desire the rates from Honaker to the destinations found unreasonable and unduly prejudicial to the extent substantially that they exceed the rates from the Charleston district to the same destinations; that the rates be made the same on all kinds of lumber and that the lower rates to Reading and Philadelphia be found to subject the central Pennsylvania points to undue prejudice.

Lumber produced on the line of the Norfolk & Western and its connections does not differ substantially in kind from that manufactured in the Charleston district. The cost of and conditions of production are about the same in both sections. Although these are facts antecedent to transportation they are mentioned to show that on a parity of rates the opportunity to market the product of each producing section would apparently be equal. It appears that the lumber from the Norfolk & Western field can be sold in Maryland, Delaware, some portions of New Jersey, certain points in Pennsylvania and the New England states, but little lumber except hemlock can be sold in central Pennsylvania in competition with the lumber from the Charleston district. There is a large quantity of native hemlock in Pennsylvania, but nevertheless at the lower rate on hemlock than on other kinds of lumber from Honaker complainants can profitably market hemlock in Pennsylvania in competition with the home-grown product.

Some stress was laid on the fact that at the prevailing rates complainants can profitably cut only about 75 per cent of the standing timber, while in the Charleston district the lower basis of rates existing permits the lumbermen to denude the land and market the lowest grades of lumber. One witness for complainant, however, explained that from 20 to 25 per cent of the timber was left standing in the Norfolk & Western field because there was no local market for it.

except the increase of 5 per cent. In 1894, the rates to Williamsport and Rochester on oak, hemlock, and spruce lumber were 24.5; to 48 I. C. Q.

Buffalo, 25.5; to Philadelphia and Reading, 19.5; to New York, 25; and to Boston, 27.5 cents. In June, 1916, following *The Five Per Cent Case*, 32 I. C. C., 325, the rates were increased by 5 per cent.

The joint and proportional freight tariff of the Norfolk & Western publishing rates on lumber from the originating territory to the destinations in the complaint is a sectional tariff. Section 1 names through rates, none of which apply to the destinations in the complaint. Section 2 provides what are there called proportional rates to and from the gateways, which are Hagerstown, Md., Shenandoah Junction and Kenova, W. Va. In applying section 2, the tariff provides:

The proportional rates to the gateways on pages Nos. 109 to 116, inclusive, should be added to the proportional rates north thereof on pages Nos. 117 to 230, inclusive. The lowest combination will be the through rate and shipments should be routed via the gateway on which the through rate is constructed.

The proportional rates to the gateways, as published on pages 109 to 116, inclusive, are applicable only in connection with the proportional rates from the gateways as published on pages 117 to 230, inclusive.

The rates are published in the same manner and on the same basis as lumber rates from other points in Virginia, Tennessee, North Carolina, South Carolina, Georgia, and southeastern territory generally. Rates from Herndon and Maben on the Virginian Railway are published in single amounts as through rates.

Complainants attack only the through rates, but presented evidence, over defendants' objections, to show that the published proportionals, or specifics, as they are sometimes called, are each unreasonable and that the specific north of the gateways is unreasonable as compared to the specific south of the gateways. Defendants protested against the consideration of the proportionals separately, contending that, notwithstanding their name and the unusual manner of their publication, they are in fact but divisions of the through rates, which alone are assailed. Neither the southern nor northern specifics may be used except in conjunction with the others. Defendants rely on the proposition so frequently reiterated by the Commission that the shipper is not interested in divisions between carriers, but merely in the total charge. The situation from the standpoint of complainants may be illustrated by citing the rate from Marion to Sunbury, 471 miles. The through rate of 25.7 cents on oak, hemlock, and spruce lumber yields 10.9 mills per ton-mile. From Marion to Hagerstown the distance is 340 miles and the yield in ton-mile earnings from the stated proportion of the Norfolk & Western 13.1 cents for this haul is 7.7 mills. The specific from Hagerstown to Sunbury is 12.6 cents, the distance 131 miles, and therefore the ton-mile earnings are 19.3 mills. Complain-

48 I. C. C.

ants stress this disparity in the amounts received by the Norfolk & Western for its difficult haul through a sparsely settled section to Hagerstown as compared with the amounts received by the carriers north of Hagerstown for their haul, where the operating and traffic conditions are more favorable. But the specific of 12.6 cents is a blanket proportion which applies not only to Sunbury, a point on the near edge of the blanket, but to points in New York. For instance, it applies to Rochester, 434 miles from Hagerstown, and yields ton-mile earnings on that distance of but 5.8 mills.

In *Nat. W. Lumber Dealers' Asso. v. N. & W. Ry. Co.*, 9 I. C. C., 87, in which through rates on lumber from these Norfolk & Western stations to New York were in issue, the subject of these so-called "specific divisions" was quite exhaustively discussed, with the concluding statement that—

It is the total charge, however, with which the members of the complaining association are concerned. If that charge is reasonable and relatively just, it must be immaterial to them what shares are received by the several carriers or upon what principle the apportionment is effected.

In that case we ordered a reduction of the blanket proportional to 12 cents, but declined to condemn its use as a proper rate factor on this traffic.

The question here presented is in part whether this lumber traffic of complainants is trunk line traffic entitled to the trunk line class rates of the official classification or southern lumber traffic.

The present rates compare not unfavorably with those on lumber from east Tennessee and western North Carolina. For example, the rate on oak, hemlock, and spruce lumber from Rift, W. Va., to Williamsport, Pa., 582 miles, is 26.3 cents, while the rate from Vance, Tenn., to the same destination, 574 miles, is 25.5 cents, and the rate from Asheville, N. C., to the same destination, 711 miles, is 29.5 cents. The rates assailed are somewhat higher than through rates from lumber-shipping points in Michigan to the same destinations, but the carriage there is entirely within central freight association and trunk line territories, under more favorable operating conditions, and, in some instances, is but a one-system haul. The rate from Greenwood, Mich., a representative group point, to Williamsport, 597 miles, is 22.2 cents; from Mackinaw City to New York, 924 miles, 27.5 cents.

In the *National Wholesale Lumber Dealers' Association Case*, *supra*, decided in December, 1901, the rate on lumber, other than oak, from Honaker to New York was shown to be 27.5 cents. We held that that rate was unreasonable and unlawful to the extent it exceeded 25 cents; and no change has since been made in the rate except to add the permitted 5 per cent increase. A reading of the report in the *National Wholesale Lumber Dealers' Case* will show that nearly

every phase of the pending case, except perhaps the alleged preference to Philadelphia and Reading, was most painstakingly considered therein. The gravamen of it was identical with the present case, i. e., the competition of the Charleston district. In *Bluefield Shippers Asso. v. N. & W. Ry. Co.*, 22 I. C. C., 519, decided in 1912, we ordered a reduction in the sixth-class rate from New York to Bluefield, W. Va., from 30 to 29 cents. Lumber is rated sixth class in official classification. The present sixth-class rate, following *The Five Per Cent Case*, is 30.5 cents. The distance from New York to Bluefield, situated in the middle of the originating territory involved in the complaint, is 613 miles. This rate earns 9.9 mills per ton-mile. Although applicable in the reverse direction, it is 4.2 cents higher than the rate on lumber of all kinds from Honaker to New York. From a review of the whole record we are not persuaded that the rates attacked, except as hereinafter specified, have been shown by complainant to be intrinsically unreasonable.

The woods, other than oak, hemlock, and spruce, produced in the Appalachia region, are poplar, chestnut, and yellow pine. Oak is a hard wood; weighs, dried, about 4,000 pounds; green, 5,200 pounds per 1,000 feet. It is more valuable than hemlock, a soft wood, or the lumber produced from the other kinds of woods. Hemlock, poplar, and chestnut each weighs about 3,000 pounds to the 1,000 feet; yellow pine weighs 500 pounds more for the same quantity. Hemlock and yellow pine are both used for the same purpose. The difference in rates applies only on the Norfolk & Western and does not apply in the through rates to New York; the proportionals north of the gateways are applicable to the transportation of all kinds of lumber. The witness for the Norfolk & Western admitted that all kinds of lumber should take the same rate. However, it is contended that the lower rates on oak, hemlock, and spruce were depressed in times of stress when lumber was less valuable and did not move freely, and should be restored to the higher level. It was explained by this witness that the lower rates on oak, hemlock, and spruce were an outgrowth of an experiment which at the outset attempted to move an overplus of poplar culls for which there was no market at the rates existing in 1892, and which had been accumulated in great quantity contiguous to the line of the Norfolk & Western. In line with this same experiment, in 1894, the Baltimore & Ohio maintaining lower rates on oak than on lumber produced from other woods, the Norfolk & Western made its oak lumber rates 2 cents lower than the rates applicable on lumber produced from other woods. Again, in 1901, when hemlock lumber had practically no shipping value, it was accorded the oak rate. On complaint of shippers of spruce lumber that rates on it higher than those on hemlock

were unreasonable, the Corporation Commission of Virginia reduced the rates on spruce lumber to a parity with those on hemlock, and the Norfolk & Western applied the reduced rates to interstate transportation. There is nothing in the record to suggest any transportation difference in the carriage of oak, hemlock, and spruce and other kinds of lumber. In the present instance under the facts of record as herein disclosed we hold it to be unjustly discriminatory to maintain different rates on them.

Upon consideration of all relevant facts disclosed of record we are of opinion and so find that, except as to rates to Baltimore, Philadelphia, and points grouped therewith, the rates upon oak, hemlock, and spruce, where lower than present rates on other lumber, are and for the future will be maximum just and reasonable rates for all kinds of lumber; and the unjust discrimination found to exist shall be removed by fixing the lower rates now applicable on oak, hemlock, and spruce as maxima upon all kinds of lumber alike. We further find that rates on lumber other than oak, hemlock, and spruce, carloads, from the points of origin to Baltimore and Philadelphia and points grouped therewith are just and reasonable maximum rates, but unjustly discriminatory in relation to rates on oak, hemlock, and spruce to the same destinations. This unjust discrimination must be removed.

The allegation of undue preference to the Charleston district requires a brief statement of the basis upon which the rates therefrom are constructed.

Cincinnati, Ohio, the western terminus of the Chesapeake & Ohio, as a point of origin in central freight association territory, is, under the percentage system prevailing therein, in a group which takes 87 per cent of the Chicago to New York class-rate scale. The Chesapeake & Ohio, since the enactment of the act to regulate commerce, has rigidly observed the long-and-short-haul provision of the act at intermediate main-line points. The Cincinnati to New York rate of 22.6 cents is blanketed to all intermediate main-line stations to and including Kanawha Falls, W. Va., approximately 250 miles east of Cincinnati. The rate to Philadelphia, which applies to Reading, is the normal differential of 2 cents under New York, and the rate to Baltimore, which applies to Williamsport and other central Pennsylvania destinations, is its normal differential of 3 cents under New York. Defendants assert that the Chicago to New York class-rate scale, 87 per cent of the sixth-class rate of which is applied intermediately on lumber from the mountainous region of West Virginia, is one of the lowest bases of rates in the world and should not be used in comparison with the rates from the Norfolk & Western stations removed from its influence.

Although the basis applies from main-line points on the Chesapeake & Ohio, branch-line points take arbitraries ranging from 2.1 to 4.2 cents above the main or junction point rates. Moreover, it is testified on behalf of the Norfolk & Western that not to exceed 10 per cent of the lumber transported from the immediate vicinity of Charleston is from main-line stations. Timber along the main lines has been cut. The average distance from Pemberton, W. Va., and all stations on the Winding Gulf branch of the Chesapeake & Ohio and all stations from Crab Orchard to Sullivan, W. Va., on the Piney Creek branch of the Chesapeake & Ohio, is 584 miles, the average rate 22.6 cents, and the average earnings per ton-mile 7.8 mills on all kinds of lumber. So it would appear that a great part of the lumber coming from the Charleston district earns approximately the same amount, as an average, as is earned on lumber produced in the Norfolk & Western field and transported to the same destinations.

The Chesapeake & Ohio, Norfolk & Western, and the Philadelphia & Reading operate a fast freight line known as the Blue Ridge Despatch from Cincinnati, via the Chesapeake & Ohio, to Basic, Va., a point on the Norfolk & Western 98 miles north of Roanoke and 144 miles south of Hagerstown, to eastern destinations, including Williamsport, Montgomery, Muncy, Montoursville, Lewisburg, Milton, Baltimore, Philadelphia, New York, and Boston, and to intermediate or related points on or reached through the Philadelphia & Reading. This line handles traffic from Chicago, Ill., Cincinnati, and intermediate points on the Chesapeake & Ohio, including Charleston. The Norfolk & Western via this route does not participate in rates to points on or reached by the Pennsylvania Railroad. The Blue Ridge Despatch was formed to compete with the direct short line of the Pennsylvania. It met the going rates which prevailed over that line, among which were the rates on lumber from local main-line points in West Virginia on the Chesapeake & Ohio. The record is not clear whether or not the Norfolk & Western actually handles any lumber from local Chesapeake & Ohio stations by way of the Blue Ridge Despatch. To Harrisburg, Pa., a central point in that state, the distance from Cincinnati via the direct line of the Pennsylvania is 556 miles; via the Blue Ridge Despatch, 680 miles; and by the line of the Norfolk & Western, via Hagerstown, 774 miles. Obviously, if the Norfolk & Western withdrew from participation in the Blue Ridge Despatch, it would have no effect on the rates from the Charleston district inasmuch as the same rates are carried by the Chesapeake & Ohio and its connections via Potomac Yard.

The Virginian Railway has a line of road from Deep Water, W. Va., to Sewall's Point, near Norfolk, Va. It connects with the

tern at Roanoke and with the Southern Railway at Maben is handled by the Virginia Railway. Lumber traffic from Herndon and Maben is handled by the Virginia Railway at junctions and also moves via Norfolk in connection with the Chesapeake & Ohio, New York, Philadelphia & Norfolk and the Pennsylvania. The Virginia Railway traffic is transported by way of the Virginian which serves the Charleston district, and the Virginian is not a party to the case. The rates on lumber from that district. From Maben the Virginian practically parallels that of the Norfolk & Western at Roanoke. When the Virginian commenced operations in 1907 the rates existing on the Chesapeake & Ohio and the Norfolk & Western where it came into direct competition with points served by the Virginian. Maben is contiguous to the Winding Gulf branch of the Chesapeake & Ohio and the same rates, higher than the rates from other points, which have been previously stated, apply to the points named in the complaint. From Herndon the Virginian applies the rates applying from North Fork, W. Va., a cross-connection on the Norfolk & Western. From Maben to Williamsport, the rate on all kinds of lumber is 22 cents. From Williamsport, 543 miles, the rate on oak, hemlock, and spruce is 24.5 cents; on other kinds, 26.5 cents. These rates have since increased 5 per cent, although at the time of the hearing the rates had not been so increased. The rates from Herndon and Maben are named in the tariff in one amount as through rates, not as proportionals, although they divide on the same basis. The proportions of the Virginian and the Norfolk & Western accruing to Hagerstown out of the through rate from Herndon to Williamsport, plus the 5 per cent increase, are 13.1 cents on oak, hemlock, and spruce lumber and 15.2 cents on other kinds, while the similar proportion accruing from Maben to Williamsport for the haul to Hagerstown is 9.4 cents. The local rates to Hagerstown from Herndon exceed the proportions by 1.6 cents in each instance. In short compass the Herndon and Maben situation epitomizes the whole case in respect of the alleged preference of the Charleston district over the Norfolk & Western field. Herndon reflects the Norfolk & Western situation from its local territory and from the lumber-producing sections of Virginia, the Carolinas, and Tennessee, from which the trunk line basis of rates does not obtain; Maben, the influence of the Chesapeake & Ohio's having adopted the Chicago to New York scale of rates at Cincinnati and applied it intermediately, subject, however, to the fact that it charges from its branch-line points arbitraries above the main-line junction point rates.

Complainants say in their reply brief:

While the Virginian can not be charged with making or having in effect unlawfully discriminatory rates, so far as its part of the transportation is concerned,  
48 I. O. O.

concerned, yet the discrimination is very apparent after the lumber leaves the rails of the Virginian and the transportation is taken up by the Norfolk & Western and by the lines north of Hagerstown.

It is admitted that the discrimination is not one which is governed by the Virginian Railway. In fact it is admitted by complainants that the discrimination between the Charleston district and the Norfolk & Western originating territory is very largely due to the participation of the Norfolk & Western in dispatch or fast freight line rates, and that as to the lines north of Hagerstown the discrimination is predicated on the receipt by them of less proportions from traffic received from the Charleston district at joint through rates than on lumber received at the gateways from the Norfolk & Western. On the record we are of the opinion and find that the discrimination or prejudice, save as to the disparity of rates on different kinds of lumber herein condemned, is not undue.

Reading, a point intermediate to Philadelphia on the line of the Philadelphia & Reading, takes, on lumber from Honaker, the same rate as Philadelphia. The major portion of the Philadelphia & Reading is located within the confines of Pennsylvania. Under the law of Pennsylvania the requirement that rates to intermediate points shall not exceed the rate to the more distant point is absolute. Reading is but typical of other intermediate points on the Philadelphia & Reading to which the terminal rate is applied.

Prior to *The Five Per Cent Case* the rate on oak, hemlock, and spruce lumber from Honaker to Philadelphia was 19.5; on other kinds 21.5 cents. The present rates are 20.5 and 22.6 cents, or, respectively, 5.2 cents each under the corresponding rates to Williamsport. Stated in the terms of the proportionals north of the gateways, that from Hagerstown to Williamsport is 12.6 and to Philadelphia 7.4 cents. The condition of lower rates to Philadelphia than to central Pennsylvania points is one which obtains generally in respect of lumber rates from Virginia, the Carolinas, and Tennessee. For instance, the rate from Ronda, N. C., to central Pennsylvania destinations is 27 cents; to Philadelphia 22 cents. On the contrary, from Michigan territory the rates to Philadelphia are higher than to central Pennsylvania points. The rate on lumber from Greenwood to central Pennsylvania points is 22.2; to Philadelphia 23.2 cents.

Other than to exhibit the rates to Philadelphia and to the central Pennsylvania points, complainants submitted no evidence on this phase of the case. It would seem, were distance alone considered, that the rates to the central Pennsylvania points should not exceed the rates to Philadelphia, for the distance from Honaker to Williamsport is approximately the same as that to Philadelphia. The witness



No. 9659.  
JOHN MONTANO ET AL.  
v.  
PITTSBURGH, CINCINNATI, CHICAGO & ST. LOUIS  
RAILWAY COMPANY ET AL.

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*Submitted November 9, 1917. Decided February 20, 1918.*

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Upon complaint to enforce the construction of a physical connection between the tracks of the Pittsburgh, Cincinnati, Chicago & St. Louis Railway and the Dayton & Union Railway; *Held*, That the Commission is without authority to grant the relief sought.

*C. L. Northlane* for complainants.

*H. C. Oliver* for Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company.

*Herbert S. Harr* and *Morison R. Waite* for Dayton & Union Railroad Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HARLAN, HALL, AND ANDERSON.

The following is the report proposed by the examiner:

The complaint in this case was filed by certain individuals and corporations whose industries are served by the Dayton & Union Railroad at Union City, Ind. Other lines entering Union City are the Pittsburgh, Cincinnati, Chicago & St. Louis Railway, hereafter referred to as the Pan Handle, and the Cleveland, Cincinnati, Chicago & St. Louis Railway, hereafter referred to as the Big Four.

The complaint alleges that the denial of switching service by the Dayton & Union on traffic arriving at or leaving Union City over the Pan Handle is unjust, unreasonable, and otherwise in violation of section 1 of the act.

On carload freight handled by the Big Four the Dayton & Union performs switching without charge. No allegation of discrimination is made in the complaint nor is the Big Four made a party defendant.

It appears that there is no physical connection between the lines of the Pan Handle and the Dayton & Union at Union City and complainants ask the Commission to order such connection to be made. At the present time complainants are compelled to dray all freight



The words "lateral branch line" do not refer to what the applicant may become or be made by order of the Commission, but to what it already is when it applies. The power of the Commission does not extend to ordering a connection wherever it sees fit, but is limited to a certain and somewhat narrow class of lines. The most obvious examples of such lines are those that are dependent upon and incident to the main line—feeders, such as may be built from mines or forests to bring coal, ore, or lumber to the main line for shipment. We agree with the Commerce Court that the traction company is not within this class. It is an independent venture, in its general course parallel to, more or less competing with, the steam roads and working on a different plan. Presumably and so far as appears it was built and would have been run without regard to the existence of the steam roads. The cases cited on behalf of the appellants as to the power of railroad companies to construct branch roads under their charter do not apply. There the determination of the company fixes the character of the branch; it builds the branch from the beginning as incident to the purposes of the company. But here, as we have said, this determination of the Commission that the applicants shall be a branch is not enough; the applicant must be a branch before it applies. That is the absolute and reasonable condition. That some shippers would be accommodated by a switch connection is not enough.

The Pan Handle and the Dayton & Union are separate and independent lines, to a certain extent competing with one another for traffic into Union City, and in no sense of the term can either be viewed as a lateral branch line of railroad. Defendants' objection should be sustained.

*HALL, Chairman:*

The foregoing report proposed by the examiner was served upon counsel and no exceptions thereto were filed. It is in line with our findings in previous cases following the decision of the Supreme Court in the case cited, and is supported by the record. We adopt it and make it part of this report. The complaint will be dismissed.

48 I. C. C.

## TULSA

## ATCHISON, TOPEKA

*Submitted May*

Commodity rates on coconuts  
La., to Tulsa, Okla., for  
and just, reasonable, and

*E. N. Adams* for commodity

*Robert N. Nash* for St.

*J. C. Burnett* for Atch

### REPORT OF THE

**HALL, Chairman:**

In our former report  
class rates to Tulsa, Okla.,  
certain commodities from  
reasons there stated we  
the commodity rates on  
New Orleans to Tulsa, Okla.,  
and should be readjusted  
again call our attention  
to make a proper adjustment  
plainant's petition a further  
also as to the rates on  
the same destinations.

At the further hearing  
rates and distances in our  
introduced some cumulative  
stantial change in the rates

The table appearing at  
duced for convenient reference  
100 pounds on the commodity

From—	To Tulsa.	To Okla- homa City.	To Mus- kogie.	To Joplin.
New Orleans:				
Bananas.....	70	72	65	65
Coconuts.....	74	74	80	80
Pineapples.....	89	89	63	63
Oranges, limes, lemons, tangerines, and grapefruit.....	70	89	65	65
Galveston:				
Bananas.....	60	62	55	62
Coconuts.....	45	45	45	45

A witness for defendants at the further hearing expressed the willingness of the St. Louis & San Francisco Railway Company to publish commodity rates from New Orleans to Tulsa of 55 cents on coconuts and 68 cents on pineapples, thus establishing the same spread and substantially the same relationship as exist in the rates from New Orleans to Tulsa, Muskogee, Okla., and Joplin, Mo., on the other commodities named in the table.

After the further hearing a form of report proposed by the presiding examiner, and substantially to the effect of the present report, was served upon the parties. No exceptions thereto were filed, as provided for in the rules of procedure applicable, and the case was submitted without argument.

In our former report we said at page 14 as to rates on bananas, in carloads, from New Orleans:

Under the circumstances we do not find that the maintenance of lower rates to Joplin and Neosho than to Tulsa is unduly prejudicial to the latter, or that the rate to Tulsa is unreasonable.

and no reason appears for changing the conclusion so reached.

From all the facts of record we find and conclude that the present rates on coconuts and pineapples, in carloads, from New Orleans to Tulsa are and for the future will be unjust and unreasonable to the extent that they exceed rates of 55 cents per 100 pounds on coconuts and 68 cents per 100 pounds on pineapples, which we find to be just and reasonable rates to be observed as maxima for the future; and that said existing rates are and for the future will be unduly prejudicial to Tulsa and its traffic and unduly preferential of Muskogee and Joplin, to the extent that the rates on coconuts and pineapples, in carloads, from New Orleans to Tulsa exceed the rates thereon contemporaneously maintained from New Orleans to Muskogee and Joplin by more than 5 cents per 100 pounds.

An order will be entered accordingly. Rates on coconuts and pineapples, in carloads, from New Orleans to Oklahoma City, Okla., should be adjusted in like manner as is herein prescribed for rates to Tulsa.

No.  
R. C.

**TABOR & NORTHERN RA**

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*Submitted November 15, 191*

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Rates on live stock, in carloads, from Tabor, Iowa, to South Omaha, Nebr., found unreasonable. Reasonable maximum rates prescribed for the future.

*J. H. Henderson* and *E. H. Scott* for complainant.

*A. F. Stryker* for South Omaha Live Stock Exchange, intervener.

*W. A. Hopkins*, *L. H. Strasser*, and *N. S. Brown* for Wabash Railway Company; *Robert McClelland* for Tabor & Northern Railway Company; and *R. B. Scott* and *L. C. Mahoney* for Chicago, Burlington & Quincy Railroad Company.

REPORT OF THE C

DIVISION 3, COMMISSIONERS H.

**ANDERSON, Commissioner:**

Complainant is engaged in the live-stock business at Tabor, Iowa, feeding live stock near that point, and, after fattening, shipping it to various markets. By complaint, filed October 14, 1916, he attacks the rates on fat cattle, sheep, and hogs, in carloads, from Tabor, Iowa, to South Omaha, Nebr., as being unreasonable and unjustly discriminatory. The South Omaha Live Stock Exchange intervened in behalf of complainant.

Tabor is located at the southern terminus of the Tabor & Northern and is reached by no other railroad. The Tabor & Northern extends 11 miles north, from Tabor to Malvern, Iowa, where it connects with the Chicago, Burlington & Quincy, hereinafter called the Burlington, and the Wabash railroads.

A main line of the Burlington extends across the state of Iowa, from Burlington, through Malvern, and crosses the Missouri River at Plattsmouth, Nebr., about 20 miles south of Omaha. From Plattsmouth the Burlington operates north to South Omaha, parallel to and on the west side of the river. It also operates south from Council Bluffs, Iowa, to Kansas City, Mo., parallel to and on the east side of the river. This line crosses the east and west line at Pacific Junction, Iowa, about 5 miles east of Plattsmouth. The Burlington thus has two routes to South Omaha from Malvern and

other points in southwestern Iowa, one via Council Bluffs and the other via Plattsmouth. Shipments over the Burlington from that part of Iowa move via Plattsmouth, presumably for operating convenience.

The Wabash extends northwesterly through Blanchard, Iowa, near the Iowa-Missouri state line, to Council Bluffs, and in connection with either the Union Pacific or Illinois Central railroads reaches South Omaha.

Under the rates now in effect between South Omaha and Tabor complainant receives his inbound shipments and delivers his outbound shipments at either Bartlett or Randolph, Iowa, stations about 8 miles west and east of Tabor, respectively. This requires that the stock be driven or hauled from 2 to 3 miles greater distance than to and from Tabor.

The following table gives distances in miles via the routes described and the rates on live stock in cents per 100 pounds between South Omaha and various points in southwestern Iowa:

	Distance.	Cattle.	Hogs	Sheep, single deck.	Sheep, double deck.	Route.
Tabor <sup>1</sup> .....	47.6	11.63	12.39	15.63	11.63	A
Tabor.....	43.1	14.18	15.39	20.17	14.18	B
Malvern.....	36.6	8.8	9.7	12.9	8.8	A
Do.....	32.1	8.8	9.7	12.9	8.8	B
Bartlett.....	35	8.8	9.7	12.9	8.8	A
Randolph.....	52.6	8.8	9.7	12.9	8.8	A
Clarinda.....	83.6	10.2	11.7	15.5	10.2	A
Blanchard.....	72.5	10.2	11.7	15.5	10.2	B
Shenandoah.....	54.6	9.8	11.1	14.5	9.8	A and B
Sidney.....	60	9.4	10.4	13.7	9.4	A

A. Burlington, via Pacific Junction and Plattsmouth.

B. Wabash, via Council Bluffs and Union Pacific.

<sup>1</sup> Add \$4 bridge toll, or 1.8 cents per 100 pounds, based on a minimum of 22,000 pounds.

Clarinda, Shenandoah, Randolph, and Sidney are on branch lines of the Burlington. Bartlett is on the main line of the Burlington extending from Council Bluffs through Kansas City. Shenandoah is also reached by the Wabash.

An exhibit introduced in evidence for complainant shows the rates on live stock to Chicago, Ill., Peoria, Ill., St. Joseph, Mo., Kansas City, Mo., St. Louis, Mo., and St. Paul, Minn., from Tabor, Malvern, Bartlett, Randolph, Clarinda, and other points in Iowa. It is not necessary to reproduce the exhibit here. It is sufficient to state that rates to Chicago are the same; to Peoria the same from Tabor as from Malvern, except on sheep in single-deck cars, which are one-half a cent per 100 pounds less from Tabor; to Peoria on cattle from Bartlett and Randolph, the same as from Tabor; and to St. Louis from Tabor are generally 1½ cents higher than from Malvern, Randolph, or Bartlett.

For the defendants it is asserted that the Wabash is the short line from Malvern to the stockyards and makes the basis of rates from Tabor; that the Tabor & Northern is a "class C" railroad and under the classification of the Iowa commission, its local rates are 130 per cent of the rates for the "class A" roads; that the local rates of the Wabash and the Burlington to Council Bluffs from Malvern are those prescribed by the Iowa commission in its distance table and that the joint rates to Council Bluffs from Tabor via either the Wabash or the Burlington at Malvern are based upon a rule of the Iowa commission, which fixes 80 per cent of the sum of the local rates to and from junctions for joint two or more line rates. The rate from Tabor to South Omaha via the Wabash is a joint rate made by the addition of the bridge toll, stated in cents per 100 pounds, from Council Bluffs, to the rate to that point, whereas via the Burlington the bridge toll is added to the rate to Council Bluffs. At the time the complaint was filed the bridge toll was \$6 per car, but it was reduced to \$4 per car on May 20, 1917.

A witness for the Burlington testified that the existing rates between South Omaha and Tabor were originally published on the basis stated, effective March 20, 1914; that joint rates on live stock to South Omaha from Tabor on that basis resulted in much lower through charges than would result if the full combination of local rates had been used to make up the through charges; that the sum of the local rates to and from Malvern to Council Bluffs, plus the bridge toll, would produce the following charges for the through movements, in cents per 100 pounds: Cattle, 16.3; hogs, 17.9; sheep, single deck, 23; and sheep, double deck, 16.3.

This witness further testified that the rates to South Omaha from Randolph and Bartlett were properly lower than from Tabor because the two points named were local to the Burlington and shipments to and from Tabor involve two-line hauls; that the records at the local office at Randolph showed that much the larger movement of live stock from that station is to Chicago, notwithstanding the lower rates to South Omaha. From this the defendants argue that if rates were reduced to South Omaha from Tabor, no increased shipments from that point to the South Omaha market would result.

The president of the Tabor & Northern testified that the road was originally built by the people of Tabor and the surrounding country; that it had proved to be a good thing, as it opened up the country and provided a gateway for shipments; and that the road was not now operated at a profit; and that during the years 1914, 1915, and 1916 there was a deficit of over \$1,000 each year. He expressed the opinion that if rates to South Omaha were reduced to the point desired by complainant, it would divert much of the live-

stock business to that market at very unprofitable rates to the Tabor & Northern. He further testified that on shipments to Chicago the Tabor & Northern received a much larger revenue than on shipments to South Omaha; that it was to the interest of the road that shipments should continue to move to Chicago; that he was satisfied to have complainant and others receive and make shipments to South Omaha to and from Bartlett or Randolph; that Tabor now has rates to Chicago on the same basis as Malvern and to St. Louis, but  $1\frac{1}{2}$  cents higher than from Malvern, which opens two of the best markets in the country to shippers; and that no damage is done anyone by the refusal of the Tabor & Northern to concur in rates to South Omaha on so low a basis as would bring the railroad to bankruptcy.

Rates on live stock from Tabor to South Omaha are so much higher than from points in the same general territory as to practically prohibit shipments from Tabor. On cattle the rates yield about 5.7 cents per ton-mile and 61.6 cents per car-mile, based on the minimum weight. The originating carrier is frank to state that the rates were not made with respect to the demands of the market at South Omaha. It is not the province of a carrier to make its rates so as unduly to favor one market as against another. Its duty is to make reasonable rates to all points. Shippers from Tabor are entitled as a matter of right to ship their live stock to the South Omaha market at rates which are reasonable when compared with rates to that market from points in the same general territory. Rates to South Omaha that range from 5.38 to 5.69 cents per 100 pounds, or \$12 to \$13 per carload higher from Tabor than from Bartlett or Randolph, can not be justified solely on the ground that shipments from Tabor involve a two-line haul. It is to be noted that rates to South Omaha from Clarinda, 83 miles distant; from Blanchard, 72 miles; and Sidney, 60 miles, are materially lower than rates from Tabor, a distance of 43.1 miles, via the short line, and 47.6 miles via the long line. No reason was given by defendants and none appears in the record for the lower rates from the more distant points except that only one line is interested in the traffic.

The Commission has often recognized that somewhat higher joint rates are justified where two lines are involved than single-line rates from and to the same points. No case has been cited, and none has been found, where such a wide difference between single and two line rates as here exist has been sanctioned by the Commission.

The parties appear to assume that rates to South Omaha from Malvern on live stock are reasonable, and there is nothing in this

record to negative such an assumption. The question is, What is a reasonable additional charge from Tabor because of the haul of 11 miles over the Tabor & Northern? Taking into consideration the condition of the Tabor & Northern, and all other facts and circumstances appearing of record, we are of opinion and find that the rates on live stock from Tabor to South Omaha are unreasonable, and that for the future reasonable rates should not exceed those from Malvern to South Omaha by more than 2 cents per 100 pounds.

An appropriate order will be entered.

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INVESTIGATION AND SUSPENSION DOCKET No. 1146.  
 PETROLEUM FROM OKLAHOMA POINTS.

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*Submitted February 5, 1918. Decided February 23, 1918.*

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Restrictions proposed by Atchison, Topeka & Santa Fe Railway Company upon application of carload rates on petroleum and petroleum products from points in Oklahoma to various interstate destinations found not justified. Suspended schedules ordered canceled.

*J. B. Coffey* for Atchison, Topeka & Santa Fe Railway Company.  
*W. E. McEwen* for Western Petroleum Refiners Association.  
*C. D. Chamberlin* for National Petroleum Association.

REPORT OF THE COMMISSION.

DIVISION 2, COMMISSIONERS CLARK, DANIELS, AND WOOLLEY.

By exceptions incorporated in supplement No. 7 to F. A. Leland, agent's, southwestern lines tariff No. 79, I. C. C. No. 1186, filed to become effective September 28, 1917, the Atchison, Topeka & Santa Fe Railway Company, hereinafter termed the Santa Fe, proposed to restrict the application of joint through rates on petroleum and petroleum products from points in Oklahoma to various interstate destinations. The provisions were suspended upon protest of the Western Petroleum Refiners Association.

The effect of the exceptions, as published, would be to prevent the application of the through rates named in the tariff upon shipments over the Santa Fe lines, except in cases where both the point of origin and of destination are on the Santa Fe. Upon hearing it was shown by protestants that the proposed tariff would in many

cases result in greatly increased charges, caused by the necessary application of combinations of intermediate rates instead of the published through rates. For example, from Ponca City and Newkirk, Okla., local refining points on the Santa Fe, to Paola, Kans., the rate would be advanced from 15 cents to 25 cents per 100 pounds; and this instance is typical of the effect upon rates from many Santa Fe points in northern Oklahoma to a large consuming territory in Kansas and Missouri. To points in Missouri now taking rates of 20, 23, 24, and 27 cents, respectively, the fifth-class rate of 60 cents would become applicable. The rate to Memphis would be increased from 19 cents to 67 cents. The rates from Oklahoma points on lines other than the Santa Fe to local Santa Fe points in other states would be similarly affected. The traffic thus subject to increased rates in the proposed tariff is competitive with traffic on which no increase in rates was proposed.

A representative of the Santa Fe appeared at the hearing and testified for that respondent that no attempt would be made to justify the tariff items under suspension so far as their effect would be to increase charges. He indicated the desire of the respondent so to amend the tariff as to restrict routing to the Santa Fe where that carrier serves both point of shipment and point of destination, but not to effect any increases in rates.

The right of a carrier to route traffic over its own line, provided the public interest does not suffer thereby, is well established. *Waverly Oil Works v. P. R. R. Co.*, 28 I. C. C., 621. *Marble Rates from Vermont Points*, 29 I. C. C., 607. Whether or not the exercise of this right in a given case is consistent with the public interest must be determined by the circumstances. The practicability of the preferred route, as determined by its directness and other operating conditions, is an important consideration. *Haverhill Box Board Co. v. B. & A. R. R. Co.*, 28 I. C. C., 336. By order of the Director General of Railroads, issued December 29, 1917, carriers are required to provide and to use through routes, regardless of line ownership, wherever increased transportation efficiency can be thereby secured. The record does not afford a basis for a conclusion as to the practicability of the routes between Santa Fe points involved herein. Protestants, however, offered no objection to the proposed routing.

The Commission should find that the proposed tariff schedules have not been justified and they should be ordered canceled.

**CLARK, Commissioner:**

The foregoing proposed report of the attorney-examiner was served upon the parties. No exceptions thereto were filed. The report and conclusions of the examiner are adopted as those of the Commission, and an order will be entered accordingly.

## THE SOUTHEASTERN SUGAR CASES.<sup>1</sup>

*Submitted December 5, 1917. Decided February 11, 1918.*

General readjustment of commodity rates on sugar from New Orleans, La., and from the north and the south Atlantic ports to points in the southeast found justified. Complaints dismissed.

*Wimbish & Ellis* for Atlanta Freight Bureau; *Theodore Brent, John A. Smith, L. M. Nicolson, Carl Giessow, and W. M. Barrow* for New Orleans Joint Traffic Bureau; and *B. Gilham* for Freight Bureau, Chamber of Commerce, Macon, Ga.

*J. L. Carling* for Arbuckle Brothers; *William A. Glasgow, jr.,* for American Sugar Refining Company; *Charles Nelson Dodge* for Colonial Sugars Company; and *Theodore Brent* for N. L. Curry Grocery Company, interveners.

*R. Walton Moore, Merrel P. Callaway, and Charles D. Drayton* for carriers generally; and *Nelson W. Proctor and Edward D. Mohr* for Louisville & Nashville Railroad Company.

### REPORT OF THE COMMISSION.

The report proposed by the examiner, with certain minor changes and corrections, is as follows:

The rates on sugar in the territory south of the Ohio and Potomac rivers and east of the Mississippi River for many years prior to June 1, 1915, were in such condition as to provoke just criticism. Several shippers came to us with formal complaints and asked for relief from rate disparities which operated to their detriment. Departures from the long-and-short-haul rule, in particular, were so marked as to appear beyond all reason. For instance, the car-load rate on sugar from New Orleans, La., to Louisville, Ky., was 17 cents, and to Nortonville, Ky., an intermediate point, 64 cents; the rate from New Orleans to Montgomery, Ala., was 17 cents, or the same as to the Ohio River crossings, while to Wilcox, Ala., an intermediate point, it was 45 cents. The applications of the carriers for relief from the long-and-short-haul rule with respect to the rates from New Orleans were assigned for hearing. Upon the record in that proceeding the Commission decided that on car-

<sup>1</sup> The report embraces No. 8117, *Atlanta Freight Bureau v. Atlanta & West Point Railroad Company et al.*; No. 8228, *Freight Bureau, Chamber of Commerce, Macon, Ga., v. Clyde Steamship Company et al.*; and No. 8255, *New Orleans Joint Traffic Bureau v. Alabama & Mississippi Railroad Company et al.*

load traffic from New Orleans to certain points reached by water lines the applicant carriers might continue to charge lower rates than were concurrently maintained on like traffic to intermediate points. The rates to the intermediate points were not to exceed those found in the report to be reasonable. On less-than-carload traffic the carriers were authorized to publish to the farther distant points commodity rates lower than to the intermediate points, provided such rates to the intermediate points did not exceed the rates to the farther distant points by a greater amount than the class rates otherwise applicable to sugar exceeded the corresponding class rates to the farther distant points. In all other respects, so far as the purposes of this report are concerned, the applications of the carriers may be said to have been denied. It appeared in that proceeding that interior basing points, Atlanta, Ga., Jackson, Miss., and others, had been given lower rates than points intermediate thereto for no other reason than that they were considered jobbing or distributing centers. *Rates on Sugar*, 31 I. C. C., 495, and the supplemental report, *Sugar Rates from New Orleans*, 32 I. C. C., 606. After our decisions were announced the carriers undertook a general revision of the entire system of sugar rates applying from New Orleans, south Atlantic ports, and via ocean and rail from north Atlantic ports to the southeast, and on June 1, 1915,<sup>1</sup> published new tariffs in purported compliance with the requirements of our order. Various interests protested because of proposed disturbances in relationships and because in the leveling process the rates to the lower rated points, to which the movement was heavy, were substantially increased so as not to necessitate too much of a reduction at the intermediate points, where the movement was comparatively light. The Commission declined to suspend the new tariffs and the complaints herein were filed challenging the propriety of practically the entire new rate structure.

The complaint in No. 8117 was filed by the Atlanta Freight Bureau and involves only the rates from New Orleans to Atlanta. It is directed against the Atlanta & West Point Railroad, the Western Railway of Alabama, and the Louisville & Nashville Railroad. Various other carriers in the southeast, directly and indirectly interested, were permitted to intervene. Reparation is asked, but no shippers are made parties to the complaint. On May 31, 1917, however, some months after the hearings were closed, several large receivers of sugar at Atlanta sought to intervene for the purpose of claiming reparation.

In No. 8255 the New Orleans Joint Traffic Bureau assails the whole new system of sugar rates from New Orleans to the southeast, in-

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<sup>1</sup> The Louisville & Nashville Railroad made some of the changes in rates to points on its line on May 1, 1915.



are negligible; it is not what could be regarded as a high-grade commodity; and moves in steady and large volume, particularly from points of production. Sound economic considerations require that the transportation charge shall be as low as is consistent with proper remuneration to the carriers for the service performed.

Sugar, in southern classification, is rated fifth class, any quantity. The rates involved and those which were previously maintained are commodity rates, generally much lower than the class rates. The establishment of commodity rates was forced upon the carriers many years ago by river competition. Low rates maintained by rail lines from New Orleans to points reached by boats were reflected to Chattanooga, Atlanta, and other interior points. The refiners at New York and other north Atlantic ports later complained to the ocean-and-rail lines of having to pay class rates to the southeast while their competitors at New Orleans enjoyed commodity rates, and the result was that commodity rates were published from the north Atlantic ports as well as from New Orleans. The establishment by eastern refiners of warehouses at the south Atlantic ports of Charleston, S. C., and Brunswick and Savannah, Ga., led to the publication of commodity rates from those points also.

Throughout the proceeding the defendants have sought to impress upon us the idea that class rates are the "normal" rates for practically all freight, and that ordinarily a commodity rate lower than the class rate which would otherwise apply is "unreasonably low" or "subnormal." We can not accept their views in this matter. They have also kept constantly before us the fact that the reductions in rates from time to time were due to the action of competitive forces and were not made with the conviction that rates previously in effect were unreasonable. But competition has often been the agency through which the public received reasonable rates.

The defendants tell of the increased cost of doing business and offer evidence as to their financial condition. The Commission is fully advised as to these matters. We are not to be understood as holding, because of our reference thereto, that evidence on these points has an important place in cases involving only one commodity which constitutes but a small proportion of the carriers' entire traffic.

All the principal carriers in the southeast took an active part in the proceedings and individually undertook to explain and defend the rates to the points on their respective lines.

To illustrate the old as well as the new adjustment we may take as an example the short line from New Orleans to Atlanta. It is formed by the Louisville & Nashville Railroad to Montgomery, Ala., the Western Railway of Alabama thence to West Point, Ga., and the Atlanta & West Point Railroad beyond to destination. The old

and the new rates from New Orleans, both on carloads and less than carloads to stations along the route, together with the distances, are shown in the appendix to this report. Starting at Gentilly, La., the first station named, it will be noted that the former rates on carloads rose in a rather illogical fashion until 28 cents was reached at Pecan, Miss., and Grand Bay, Ala. They then went down until 12 cents was reached at Mobile. East of Mobile they climbed to 45 cents at Owassa, Ala., and neighboring stations and then gradually fell to 17 cents at Montgomery. East of Montgomery they went as high as 39 cents at Gabbettville and Cannonville, Ga., and then dropped to 23 cents at Atlanta. The rates on less than carloads were generally the same as on carloads until Garland, Ala., was reached; beyond that point the less-than-carload rates were generally 8 cents higher than the carload rates. This undulating structure was due to the fact that relatively low rates were accorded recognized basing points such as Mobile, Montgomery, and Atlanta and the rates to the intermediate points based upon the lowest combination of locals to and from the basing points.

In the new adjustment a carload rate of 28 cents is applied at Atlanta and as far back as the first station east of Montgomery. At Montgomery the rate is 21 cents and it applies to stations west thereof almost as far as Mobile. There are depressions at and near Mobile because of competition on the Gulf. West of Mobile the rates descend. The less-than-carload rates as a rule are considerably higher than the carload rates. Generally, the less-than-carload rates to points along the line to Atlanta range from 4 to 14 cents higher than the carload rates, dependent upon distance. The increased spread between the carload and the less-than-carload rates is the principal cause of complaint from the New Orleans jobbers. That matter will be specially considered later in the report.

Throughout the southeast there have been substantial increases in the rates to the larger cities or basing points and very substantial and general reductions to the intermediate points. On paper, the reductions at the intermediate points more than offset the increases at the larger points, but the great volume of the traffic in the past has moved to the larger points. An increase in the carriers' revenues is therefore to be expected unless or until a sufficient flow of the traffic is diverted from the larger cities to the intermediate points to balance the situation. In *Sugar Rates from New Orleans, supra*, we recognized that the carriers in correcting the disparities should be permitted to make some increases as well as decreases in their rates in order to effectuate such an adjustment as would neither materially increase nor decrease their revenues. The effect of the new rates upon the carriers' revenues is probably impossible of determination.

Sooner or later the new rates, together with changed economic and commercial conditions, may direct the traffic currents into different channels and bring about a decided change in the methods of distribution. The preference which the old adjustment gave the large cities has been removed or reduced and smaller intermediate towns which received their sugar in less than carloads from such points as Atlanta, Montgomery, and New Orleans will no doubt be led to bring a large portion of it in carloads direct from New Orleans. They will be encouraged to become jobbing centers. Many of them, in a small way, are already doing a jobbing business. The movement of more sugar in carloads to such smaller centers at the reduced rates may mean the movement of that much less to the points where the rates have been increased. The New Orleans jobbers, who ship at less-than-carload rates, say they will lose a substantial portion of their business to the interior jobbers. If that is the case there will be a greater movement of carload traffic from the New Orleans refineries to the interior jobbing centers. While the number of points from which sugar will be jobbed may be increased, as already suggested, the size of the selling territories tributary to the larger points may be reduced. The amount of traffic distributed from the jobbing centers will probably be diminished and moved shorter distances. Under such conditions the carriers' revenue from the less-than-carload traffic would suffer. The development of new refining points, the invasion of the southeast by Colorado, Utah, and Michigan producers of beet sugar, enlivened commercial activity, and new conditions which now attend and others which may follow the war in Europe may play an important part in changing the situation. The general readjustment of class and commodity rates in the southeast, which became effective January 1, 1916, or such modification thereof as may be required in the proceedings now pending, will have a tendency in the same direction. We are principally concerned, however, with the situation as it exists at present.

The defendants have filed of record elaborate statements showing the amount of tonnage received by each point in the southeast from each of the points of origin, and the revenue yielded, for a period of eight months preceding and a period of eight months immediately following the readjustment. The submission of these cases was delayed a year or more pending the compilation of these data. The figures are relied upon by the parties to support their conflicting claims with respect to the shifting of the movement and the earnings of the carriers, but at this late date, and since they cover such a short period of time, they are conclusive of substantially nothing. It is fair to say, however, that they tend to indicate that some of the expected changes in the situation are already under way. The parties are particularly interested in the figures for Alabama and

Georgia. The recapitulation set forth below shows the tonnage in carloads and less than carloads during the period before the readjustment compared with that during the subsequent period. The average rate, computed by dividing the total tonnage into the revenue received, also appears.

	Eight months ending Jan. 31, 1915.				Eight months ending Jan. 31, 1916.			
	Carload.		Less carload.		Carload.		Less carload.	
	Ton-nage.	Aver-age rate per 100 pounds.	Ton-nage.	Aver-age rate per 100 pounds.	Ton-nage.	Aver-age rate per 100 pounds.	Ton-nage.	Aver-age rate per 100 pounds.
Depressed rate points in Alabama.....	<i>Pounds.</i> 28,028,164	<i>Cents.</i> 17.9	<i>Pounds.</i> 8,431,927	<i>Cents.</i> 21.7	<i>Pounds.</i> 27,308,599	<i>Cents.</i> 21.3	<i>Pounds.</i> 1,735,648	<i>Cents.</i> 35.8
All other points in Alabama.....	539,096	32.8	5,149,922	36.5	2,206,871	26.7	3,311,171	44.8
Depressed rate points in Georgia.....	36,601,447	23.1	1,760,393	28	28,141,062	31.1	1,032,660	43.2
All other points in Georgia.....	512,779	35.3	1,619,351	39.1	1,451,225	29.5	1,355,662	45.1

These figures seem to indicate a substantial increase in revenue. The defendants estimate it at about 12.6 per cent. For the entire southeast the movement in carloads to and from all points increased from 206,508,953 pounds during the eight months before the readjustment to 253,365,048 pounds in the subsequent period, or 46,857,095 pounds. The less-than-carload movement fell from 222,812,121 pounds to 215,641,887 pounds, or 7,170,234 pounds. The carload revenue increased from \$407,819 to \$506,017, or \$98,198. The less-than-carload revenue dropped from \$473,162 to \$468,095, or \$5,067. The yield per 100 pounds decreased slightly on both carload and less-than-carload traffic. Whether the carriers receive greater or less revenue from the present rates than they did from the former rates, however, is not necessarily determinative of the questions before us.

The representative of the New Orleans interests suggested a new system of sugar rates which contemplated an increase of 2 cents per 100 pounds in the carload rates formerly applied to the depressed rate points, and an observance of the long-and-short-haul rule; the less-than-carload rates to be not more than 125 per cent of the carload rates, subject to a minimum spread of 6 cents. The system of rates suggested by him, as applied to the tonnage moved in 1914, would have increased the carriers' revenues on carload traffic from New Orleans from \$221,881 to \$242,388, or \$20,507; on less-than-carload traffic the increase would have been from \$85,071 to \$97,104, or \$12,033.

THE CARLOAD VS. THE LESS-THAN-CARLOAD RATES.

The less-than-carload commodity rates on sugar from New Orleans to the southeast before the readjustment were ordinarily 3 cents higher than the carload rates, but the spread is now consider-

ably increased. For instance, to Atlanta the carload rate was formerly 23 cents and the less-than-carload rate 26 cents; they are now 28 cents and 42 cents, respectively. The spread in that case, as will be seen, was increased from 3 cents to 14 cents.

The jobbers at New Orleans, who have been shipping to points throughout the southeast in less than carloads, fear that in consequence of the increased spread, the movement of the traffic from New Orleans will be in carloads from the refineries to consuming and jobbing points. Several of the jobbers testified that the new rates would be ruinous to their sugar business. The defendants contend that the business of the New Orleans jobbers should not be materially affected by these rates for the reason, as they state, that the less-than-carload rates from New Orleans to most points, except those in the immediate vicinity of the interior jobbing centers, are lower than the sums of the carload rates to the jobbing centers and the class rates applying therefrom. In point of fact, however, the defendants' tonnage statements above referred to show a marked decrease in the less-than-carload business done by the New Orleans jobbers. The extent to which this falling off may have been due to conditions other than the increased spread must be left to speculation.

The New Orleans jobbers concede that the former spread, which was generally 3 cents, was too narrow, and as previously stated, are willing that the less-than-carload rates be made 125 per cent of the carload rates, subject to 6 cents as a minimum spread. Defendants contend that as commercial and competitive conditions affect the carload rates differently than they do the less-than-carload rates a definite and uniform relation between the two is impracticable. In any event a difference of only 25 per cent appeals to us as rather small.

The old adjustment was unusual. Notwithstanding the considerably greater cost of handling less-than-carload freight, the rates thereon were but slightly higher than on carload traffic. It enabled the New Orleans jobbers to ship long distances in small lots and to sell direct to country stores throughout the southeast. The usual method of distributing commodities is to move them in carloads to purchasing or wholesaling centers, and then in less than carloads to the points of consumption in the immediate neighborhood. Few rates in this country are so adjusted as to encourage the distribution of commodities in the manner favored by the New Orleans jobbers. One of the reasons given by the Macon interests for the requested dismissal of their complaint against the new rates from the eastern cities was the fact that in the readjustment the spread between the carload and the less-than-carload rates was increased. The increased spread was understood to retard the movement of less than carloads

made by the refiner having the lowest freight rate to that point.  
When one refiner has to absorb more than 4 or 5 cents to meet his  
competitor's delivered price, he often prefers to give up the business.  
The reduction of the differential has accordingly decreased the ad-  
48 I. C. C.

vantages of the New Orleans refiners and benefited their competitors in New York. The New Orleans interests naturally complain. The former differentials had been maintained for many years and were the outcome of long-continued strife and negotiations between the carriers. The heavier increases in the rate from New Orleans than in those from New York was based upon the theory that in past years, as a result of the river competition in the southeast, there had been too much of a depression in the rates from New Orleans. We gather from statements of defendants' witnesses that the new rates from New Orleans probably would have been made still higher had it not been for the desire of some of the lines operating therefrom to keep Atlanta, Chattanooga, and other interior points more nearly in line with Nashville and other river points. The commodity rate on sugar from New Orleans to Atlanta is equal to 50 per cent of the fifth-class rate from and to those points. The commodity rate from New York to Atlanta is equal to 60 per cent of the corresponding fifth-class rate.

The New York refiners have complained to the carriers for years because of the advantages accorded New Orleans and, as before stated, have intervened in this proceeding to protect their interests. They make some carload but very few less-than-carload shipments from New York through to the southeast. They maintain warehouses at the south Atlantic ports, to which they ship large cargoes by ocean vessels, and from which they distribute to points in the southeast in small lots. The published charge for the service from the New York refiners to the south Atlantic ports at the time of the hearing was approximately 17 cents, made up as follows:

	Cents.
Lighterage in New York harbor-----	3
Port to port rate-----	12. 5
Marine insurance-----	. 75
Terminal charge at destination-----	. 75
Total-----	17

The new joint through ocean-and-rail rates from New York are generally equal to and are in no case higher than a rate made by adding to this 17-cent charge the local rail rates from the south Atlantic ports. The intrastate rate from Brunswick and Savannah to Atlanta was 19 cents, which, added to the 17-cent charge, equals the through carload rate of 36 cents. The port to port rate is now 2 cents higher than it was at the time of the hearing, possibly because of a lessening of the force of the competition of so-called tramp vessels, which has affected the rates for years. To a large portion of the territory tributary to the New York refiners the intrastate rates from the south Atlantic ports above named are subject to

the jurisdiction of the Georgia Railroad Commission. The carriers have now pending before that body a proposal to so modify their present rates as to put them on substantially the same basis as now applies from New Orleans. The rates from the south Atlantic ports were depressed by the former rates from New Orleans. The readjustment sought in the proceeding referred to would result in increases from the ports of Savannah and Brunswick to the so-called depressed rate points in the state of Georgia. It would reduce the carload rates to intermediate points, and would reduce the less-than-carload rates to points over 140 miles, while for distances up to 140 miles the less-than-carload rates would be slightly increased. There will be discrimination, in some cases against New Orleans and in some cases against the south Atlantic ports, but in the main probably against New Orleans, until the two sets of rates are brought into harmony. Whether transportation conditions are such as to make that discrimination undue is not disclosed. The interstate rates from the south Atlantic ports measure up well with those from New Orleans for equal distances. We understand it to be the purpose of the defendants to maintain their present through rates from New York even though the rates from the south Atlantic ports are increased as a result of the proceeding referred to.

In arriving at a basis for dividing joint through ocean-and-rail rates between New York and the southeast on freight traffic in general the actual distance by water between New York and the south Atlantic ports is regarded as equivalent to 250 miles of rail transportation. The short-line distance from Savannah to Atlanta is 260 miles. The distance from New York to Atlanta according to that method of computation is therefore 510 miles, or only 17 miles greater than that from New Orleans to Atlanta, while the rate from New York is 8 cents higher than that from New Orleans. The New York refiners contend that where the distance from New York to the southeast made according to the method referred to above is substantially equal to the rail distance from New Orleans the rates from New York could well be at the most no higher than those from New Orleans. They go even further, and suggest that if there is to be a differential it should be in favor of, rather than against, New York, for the reason that the ocean-and-rail route from New York is less desirable than the rail route from New Orleans, because via the former the service is slower and the sugar more liable to become damaged or to deteriorate. The Coca-Cola Company, at Atlanta, which previous to 1911 bought most of its sugar in New York, now gets its supply from New Orleans, mainly on account of the advantages which the route from New Orleans affords.

THE NEW ORLEANS-ATLANTA RATES.

Atlanta is the largest receiver of sugar in the interior southeast. The Coca-Cola Company alone uses about 15,000,000 pounds annually, approximately half of Atlanta's receipts. There are also in Atlanta a number of jobbers and several manufacturers of candy, who receive large quantities of sugar.

The carload rate from New Orleans to Atlanta was increased from 23 cents to 28 cents, or approximately 21 per cent. At the same time the less-than-carload rate was increased from 26 cents to 42 cents, or about 61 per cent. These rates apply not to Atlanta alone, but are blanketed over several hundred miles of territory. Practically all the state of Alabama lying east of Birmingham and Montgomery and most of the western half of the state of Georgia take the same rates. The Atlanta interests consider the rate to Atlanta apart from the general rate fabric and point out that the usual and direct route between those points is composed of the prosperous carriers which they named as defendants. They are principally interested in the carload rate, very little of the traffic being received in less than carloads.

The record contains a chronological statement of the rates on sugar from New Orleans to Atlanta beginning with 1881, when a class rate of 40 cents applied. During the period from 1884 to 1890 commodity rates were published which fluctuated between 27 and 39 cents. A rate war in 1894 brought the rate down to 12 cents for a very short period. It then went to 33 cents and in 1895 dropped to 18 cents. It remained at that figure until 1899, when it was made 20 cents. From 1900 to June 1, 1915, it was 23 cents, and since that date has been 28 cents. In the proceeding under the fourth section, referred to at the outset, we fixed the following as reasonable maximum rates from New Orleans:

Distance.	Rate per 100 pounds, carload.
Not exceeding 360 miles from New Orleans.....	Cents. 21½
To intermediate points on direct lines to the Ohio River south of the south boundary of the state of Tennessee more than 360 miles from New Orleans, not more than.....	26
To intermediate points north of the south boundary of the state of Tennessee, not more than....	28

The carload rate of 28 cents to Atlanta is the same as that allowed to the territory north of the southern boundary of the state of Tennessee. We fixed no rate to Atlanta, as it was not on a direct route to the Ohio River and not involved in the case. The short-line distance from New Orleans to Atlanta is 493 miles. The dis-

tances to points north of the southern boundary of Tennessee range from about 400 to 800 miles and average between 600 and 650 miles.

The earnings per ton-mile via the direct route from New Orleans to Atlanta at the former rate of 23 cents were 9.33 mills; at the present rate of 28 cents they are 10.36 mills.

The distance from New Orleans to Atlanta is practically the same as to Chattanooga, and transportation conditions are probably not substantially dissimilar. The movement of sugar to Atlanta is three or four times as great as to Chattanooga. The class rates are the same, and prior to 1900 the commodity rates on sugar were the same. The less-than-carload commodity rates are the same now, being 42 cents, but the carload rate to Chattanooga is 24 cents, or 4 cents less than to Atlanta. Prior to June 1, 1915, the difference in favor of Chattanooga was but 3 cents, the rate to Chattanooga as far back as 1900 being 20 cents as compared with 23 cents to Atlanta. The points intermediate to Chattanooga take the Chattanooga rate of 24 cents as the points intermediate to Atlanta take the Atlanta rate of 28 cents. The lower rate on sugar to Chattanooga than to Atlanta is not claimed to injure Atlanta but is referred to by the complainant as evidencing the unreasonableness of the rate to Atlanta. Atlanta's competition in the distribution of sugar is not with Nashville, Memphis, or Chattanooga, but with points in Georgia which take the same rate as Atlanta. By a tariff filed to become effective September 9, 1917, the interested carriers sought to increase the New Orleans-Chattanooga rate from 24 cents to 26 cents and the rates from New Orleans to points north of Birmingham and intermediate to Chattanooga from 24 cents to 25 cents. Increases were also proposed to points along the line of the Cincinnati, New Orleans & Texas Pacific Railway from Chattanooga all the way to the Ohio River, and to a few other and related points in the states of Alabama, Georgia, Kentucky, Mississippi, and Tennessee. Upon protest the operation of this issue was suspended. Investigation and Suspension Docket No. 1127, *Sugar from New Orleans, La.*, now pending.

The principal route between New Orleans and Chattanooga is that of the New Orleans & Northeastern and the Alabama Great Southern railroads, known as the Queen & Crescent route. These roads, in connection with the Southern Railway beyond Birmingham, Ala., have a route from New Orleans to Atlanta but 29 miles longer than the direct route, and but 24 miles longer than the principal route from New Orleans to Chattanooga. All of these carriers are constituents of the Southern Railway system. The Atlanta interests contend that an increase of 1 cent in the rate to Atlanta would have compensated the carriers for all the reductions at intermediate points.

That would have made the rate 24 cents, the same as to Chattanooga. They contend that the rate to Chattanooga was voluntarily established, and that it is therefore a proper measure to apply in determining a reasonable rate to Atlanta, particularly via the lines of the Southern Railway system, since two of them are responsible for the rate to Chattanooga. The defendants point out that in the fourth section proceeding a rate of 28 cents was authorized to Chattanooga. The competition of Chattanooga with Nashville and Memphis appears to have been responsible for the carriers holding the New Orleans-Chattanooga rate at a lower basis than was fixed as a reasonable maximum by the Commission. It has been the policy of the Queen & Crescent route for years to make the rates to Chattanooga the same as, or with relation to, the rates to Nashville and Memphis in order to assist the jobbers at Chattanooga in selling against those at the two other points. This was done over the protest of the direct New Orleans-Atlanta lines. The rates to Nashville and Memphis are made by lines other than those composing the Queen & Crescent route and are affected by the competition of the boat lines. The present rates from New Orleans are to Nashville 17 cents and to Memphis 12 cents. The carriers to Atlanta have been practically free from the influences which have operated to depress the rate to Chattanooga.

The defendants offered the following statement to show that the rates on sugar from New Orleans to Atlanta compare favorably with the rates from New Orleans for approximately equal distances in various directions:

From New Orleans, La., to—	Rates on sugar per 100 pounds.	
	C. L.	L. C. L.
	Cents.	Cents.
Atlanta.....	28	43
Madison to Lake City, Fla., inclusive.....	35	46
Valdosta, to Waycross, Ga., inclusive.....	34	46
Tifton to Waycross, Ga., inclusive.....	34	46
Cordele to Helena, Ga., inclusive.....	34	46
Columbus to Macon, Ga., inclusive.....	28	43
West Point to Atlanta, Ga., inclusive.....	28	43
Veto, Ala., to Columbia, Tenn., inclusive.....	28	43
Humboldt to Rives, Tenn., inclusive.....	28	44
Dyersburg to Rives, Tenn., inclusive.....	28	44
Fort Smith, Ark.....	28	50
Poteau, Okla.....	35	70
Denison, Tex.....	44	57
Fort Worth, Tex.....	44	57

The fifth-class rate from New Orleans to Atlanta, which would apply in the absence of commodity rates, is 56 cents, equal to double the carload commodity rate. The rates used in comparison are in all cases as high as or higher than to Atlanta.

The rates on sugar from New Orleans are also compared with the rates from other points as shown in the table below:

The individual and the average short-line distances from several Ohio River crossings to Atlanta are but slightly less than the distance from New Orleans to Atlanta. The rate on coarse grains from the Ohio River to Atlanta is 25 cents, or only 3 cents less than on sugar from New Orleans to that point notwithstanding the heavier movement of grain and the intense competition to which it is subjected. Defendants call particular attention to this comparison.

In the table below will be seen a statement of the carload rates on various commodities from Ohio River crossings and New Orleans to representative points in Georgia, together with distances, compared with the carload rate on sugar from New Orleans to Atlanta.

Commodity.	From—	To—	Distance.	Rate.
			Miles.	Cents.
Dried beans.....	Cincinnati.....	Atlanta.....	474	47
Do.....	do.....	Rome.....	414	40
Do.....	do.....	Macon.....	561	54
Canned goods.....	do.....	Atlanta.....	474	41
Do.....	do.....	Rome.....	414	41
Do.....	do.....	Macon.....	561	48
Do.....	Louisville.....	Columbus.....	551	43
Do.....	New Orleans.....	Atlanta.....	498	37
Do.....	do.....	Rome.....	414	37
Do.....	do.....	Macon.....	512	30
Do.....	do.....	Columbus.....	412	30
Starch.....	Cincinnati.....	Atlanta.....	474	33
Do.....	do.....	Rome.....	414	26
Do.....	do.....	Macon.....	561	23
Cabbage, onions, and potatoes.....	do.....	Atlanta.....	474	25
Do.....	do.....	Rome.....	414	25
Do.....	Louisville.....	Columbus.....	551	25
Do.....	New Orleans.....	Atlanta.....	498	31
Do.....	do.....	Macon.....	512	31
Pickles and vinegar.....	Cincinnati.....	Atlanta.....	474	41
Do.....	do.....	Rome.....	414	41
Do.....	Louisville.....	Columbus.....	551	43
Do.....	New Orleans.....	Atlanta.....	498	37
Do.....	do.....	Macon.....	512	30

Commodity.	From—	To—	Distance.	Rate.
			Miles.	Cents.
Molasses and sirup.....	Cincinnati.....	Atlanta.....	474	32
Do.....	do.....	Rome.....	414	32
Do.....	Louisville.....	Columbus.....	551	34
Do.....	Cincinnati.....	Macon.....	551	34
Do.....	New Orleans.....	Atlanta.....	498	28
Do.....	do.....	Columbus.....	412	30
Do.....	do.....	Macon.....	512	30
Glucose.....	Cincinnati.....	Atlanta.....	474	28
Do.....	do.....	Rome.....	414	28
Do.....	do.....	Macon.....	551	30
Soda.....	do.....	Atlanta.....	474	41
Do.....	do.....	Rome.....	414	41
Do.....	Louisville.....	Columbus.....	551	43
Do.....	Cincinnati.....	Macon.....	551	43
Sugar.....	New Orleans.....	Atlanta.....	498	28

EXAMINER’S PROPOSED CONCLUSION.

In the light of all the evidence that has been put before us we conclude that the defendants have justified the new rates. We will accordingly order a dismissal of the complaints.

HARLAN, *Commissioner*:

There is no controversy in this proceeding with respect to the material facts involved, and our examination of the record confirms the accuracy of the foregoing statement of the case by the examiner who heard the evidence and leads us to approve and adopt as our own the conclusions reached by him. It may be well, however, before entering an order dismissing the complaints to advert briefly to one or two of the more important contentions urged by the parties in interest.

Counsel for the Atlanta receivers and consumers of sugar asks that the present rate to that point from New Orleans be considered separately and apart from the general rate structure under consideration; the request is coupled with what seems to be an intimation that if so examined the presumption, arising out of the long-continued maintenance of the prior 23-cent rate, that the present higher rate is unreasonable would be found not to have been overcome by any evidence adduced of record, and that the Commission would be compelled to find that the defendants had failed to prove that the former 23-cent rate was not sufficiently remunerative. As stated by the examiner, the complaints before us challenge the propriety of practically the entire rate structure on sugar in the territory outlined in the statement of the case; under such circumstances it is not only the usual practice but it is indeed our duty on the broad general principles embodied in the act to examine the whole rate situation in order to ascertain whether the individual rates are fairly related to each other and whether the whole rate fabric, besides being reasonable, is free from unlawful preferences and discriminations. West-



# APPENDIX.

Statement of the present and former rates on sugar, carload and less than carload, from New Orleans to Atlanta, Ga., and intermediate points via the short line.

To—	Dis- tance.	Carload.		Less than carload.	
		Present.	Former.	Present.	Former.
<i>L. &amp; N. R. R. stations.</i>					
Gentilly, La.....	6	7	7	7	7
Viavant, La.....	8	7	7	7	7
Lee, La.....	9	7	7	7	7
Micheaud, La.....	13	10	10	10	10
Chef Montuer, La.....	19	12	12	12	12
Lake Catherine, La.....	25	12	12	16	12
Rigolets, La.....	30	12	12	18	12
Dunbar, La.....	36	12	12	18	12
Baldwin Lodge, Miss.....	38	12	12	18	12
Claiborne, Miss.....	39	12	12	18	12
Ansley, Miss.....	41	12	12	18	12
Fig Orchard, Miss.....	42	12	12	18	12
Lake Shore, Miss.....	45	12	12	18	12
Clermont Harbor, Miss.....	46	12	12	18	12
Waveland, Miss.....	48	12	12	18	12
Nicholas Ave, Miss.....	50	12	12	18	12
Sand Pit, Miss.....	51	12	12	18	12
Bay St. Louis, Miss.....	52	12	12	18	12
Henderson Point, Miss.....	54	12	12	18	12
West Pass Christian.....	56	12	12	18	12
Pass Christian, Miss.....	58	12	12	18	12
Menge Ave, Miss.....	59	12	12	18	12
East Pass Christian, Miss.....	60	12	12	18	12
White Harbor, Miss.....	61	12	12	18	12
Long Beach, Miss.....	63	12	12	18	12
Gulfport, Miss.....	67	12	12	18	12
Elberton, Miss.....	69	12	12	18	12
Mississippi City, Miss.....	70	12	12	18	12
DeBuys, Miss.....	73	12	12	18	12
Beauvoir, Miss.....	75	12	12	18	12
Hartsease, Miss.....	77	12	12	18	12
Camp Ground, Miss.....	78	12	12	18	12
Biloxi, Miss.....	79	12	12	18	12
Ocean Springs, Miss.....	83	12	12	18	12
Fontainebleau, Miss.....	90	12	12	18	12
Hilda, Miss.....	93	12	12	18	12
Gautier, Miss.....	97	12	12	18	12
Pascagoula, Miss.....	100	12	12	18	12
Biltless, Miss.....	104	15	25	18	25
Orange Grove, Miss.....	107	15	25	25	25
Pecan, Miss.....	110	15	28	23	25
Grand Bay, Ala.....	115	15	28	23	25
St. Elmo, Ala.....	121	15	24	23	24
Irvington, Ala.....	122	15	24	23	24
Padgett, Ala.....	124	15	24	23	24
Theodore, Ala.....	127	15	23	23	23
Mann, Ala.....	130	15	22	23	23
Venetia, Ala.....	134	15	22	23	23
Neoshota, Ala.....	135	15	24	23	19
Warrens Switch, Ala.....	137	15	19	23	19
Mobile, Ala.....	140	12	12	21	12
Magazine, Ala.....	143	19	19	23	19
Nenemoosha, Ala.....	149	21	22	31	23
Hurricane, Ala.....	156	21	24	33	24
Carpenter, Ala.....	158	21	24	33	24
Bay Minette, Ala.....	164	21	23	37	25
Pinchona, Ala.....	168	21	23	37	25
Carney, Ala.....	169	21	23	37	25
Dyas, Ala.....	172	21	20	37	26
Morrison, Ala.....	176	21	20	37	25
Nokomis, Ala.....	181	21	20	37	22
Atmore, Ala.....	185	21	24	37	24
Malta, Ala.....	188	21	27	37	27
Canoe, Ala.....	190	21	27	37	27
Wawbeek, Ala.....	193	21	29	37	29
Flomaton, Ala.....	199	21	29	37	29
Pollard, Ala.....	205	21	29	37	29





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3811. CONSOLIDATION  
by the D. & R. G  
tion of coal. No

7350. BARRETT  
pitch and coal ta  
town, Ohio, as cor  
W. A. Cole and C  
March 11, 1918.

8405. CHATTAN  
Rates on fire bri  
B. R. Shepperd fe  
defendants. Con

9018. TRAFFIC  
modity rates to al  
tion. G. P. Boye  
Harris, E. W. Be  
cull, P. B. Warren  
Parker, E. W. Ki  
F. H. Wood, Dene  
Waite, W. L. Lo  
Northrop, J. T. I  
Hobbs, S. S. Perr  
& Howe, H. D. F  
Hynkle, H. G. He  
C. B. Cardy, H. A  
Dismissed on requ

9035. FEDERAL  
coal from Kentuc  
shipment via the  
Frost for complain  
and R. W. Moore  
1918.

9343. SWIFT &  
c. l. shipments o  
Ryder for compla  
Parker, M. R. Wa  
Fletcher, J. C. Bi  
Norton, C. C. Wr  
M. B. Pierce, M.  
Ballard, C. E. De  
Dismissed on requ

9426. **SCHAFF, RECEIVER, MISSOURI, KANSAS & TEXAS RY. CO. v. A., T. & S. F. RY. CO. et al.** Passenger fares within the states of Missouri, Kansas, and Oklahoma. *C. S. Burg* and *J. M. Bryson* for complainant. *A. E. Helm, H. O. Caster, and F. S. Jackson* for intervenors. *O. E. Swan, Winston, Payne, Strawn & Shaw, H. G. Herbel, F. G. Wright, O. W. Dynes, J. N. Davis, S. T. Bledsor, T. J. Norton, S. W. Moore, S. W. Sawyer, W. F. Dickinson, R. A. Brown, R. L. Douglas, H. A. Scandrett, N. H. Loomis, J. M. Souby, A. Miller, D. Upthegrove, J. R. Turney, T. Bond, N. S. Brown, J. A. Eaton, R. W. Wells, and R. B. Scott* for defendants. Dismissed on request of complainant, February 4, 1918.

9437. **HITCHCOCK & HITCHNER v. O. S. L. R. R. Co. et al.** Rate for the transportation via an interstate route, of one carload of cedar poles from Dover, Idaho, destined to Boise, Idaho, there reforwarded under new bill of lading to Gooding, Idaho. *M. P. Flannery* for complainant. *J. O. Moran* for defendants. Dismissed for want of prosecution, February 9, 1918.

9629. **FREIGHT BUREAU, MACON CHAMBER OF COMMERCE v. B. & O. R. R. Co. et al.** Rates on rough glass for skylights and common window glass from Buffalo, N. Y., Pittsburgh, Pa., Clarksburg, and Parkersburg, W. Va., and other points to Macon, Ga. *B. Gilham* for complainant. *C. J. Rixey* and *D. L. Younger* for defendants. Dismissed on request of complainant, January 22, 1918.

9696. **SOUTH CHESTER TUBE CO. v. P. R. R. Co. et al.** Rate on wrought-iron pipe from Chester, Pa., to New York, N. Y., and Boston, Mass. *S. B. Smith* for complainant. *H. W. Bikle* and *W. L. Kinter* for defendants. Dismissed on request of complainant, February 4, 1918.

9709. **CURRIE & CAMPBELL v. C. R. R. Co. of N. J.** Demurrage on lumber at Constable Hook, N. J., originating at McDougall's Mills, Ont. *W. S. Phippen* for complainant. *A. H. Elder* for defendant. Complaint satisfied. Dismissed, February 4, 1918.

9756. **GAMBLE ROBINSON CO. v. S. P. Co. et al.** Rates on peaches from New Castle, Loomis, and Penryn, Cal., to Madison and Redwood, Minn. *L. A. Knudsen* for complainant. *A. P. Humburg, F. M. Miner, M. M. Joyce, F. H. Wood, C. W. Durbrow, G. D. Squires, and F. B. Austin* for defendants. Transferred to Special Docket for adjustment, March 20, 1918.

9775. **FREIGHT BUREAU, MACON CHAMBER OF COMMERCE v. G. S. & F. RY. CO. et al.** Class and commodity rates from Jacksonville, Fla., and Charleston, S. C., to Macon, Ga. *B. Gilham* for complainant. *C. J. Rixey, jr., and D. L. Younger* for defendants. Dismissed on request of complainant, January 22, 1918.

9785. **HAWKINSVILLE CHAMBER OF COMMERCE v. H. & F. S. RY. CO. et al.** Class and commodity rates from Jacksonville, Fla., and Charleston, S. C., to Hawkinsville, Ga. *B. Gilham* for complainant. *C. J. Rixey, jr., and D. L. Younger* for defendants. Dismissed on request of complainant, January 22, 1918.

9800. **MILLEDGEVILLE JOBBERS ASSO. v. C. OF G. RY. CO. et al.** Class and commodity rates to Milledgeville, Ga., from Jacksonville, Fla., and Charleston, S. C. *B. Gilham* for complainant. *C. J. Rixey, jr., and D. L. Younger* for defendants. Dismissed on request of complainant, January 22, 1918.

9825. **RUSSELL v. D., L. & W. R. R. Co. et al.** Rate on peaches shipped from Household, Okla., to Philadelphia, Pa., and diverted to Syracuse, N. Y. *M. S. Connerly* for complainant. *J. B. Coffey* for A., T. & S. F. Ry. Co., defendant. Complaint satisfied. Dismissed, February 4, 1918.

9875. **BRINKLEY-DOUGLAS FRUIT CO. v. ST. L., S. F. RY. CO. et al.** Rate on watermelons from Cement, Okla., to Rocky Ford, Colo. *H. R. Lebrecht* for complainant. *A. E. Haid, B. H. Stanage, and J. P. Wahle* for defendants. Dismissed on request of complainant, February 4, 1918.

9897. *HITE & RAFFETTO v. C. R. R. Co. of N. J.* Demurrage on coal at Elizabethport, N. J. *C. S. Allen* for complainant. *A. H. Elder* for defendant. Dismissed without prejudice on request of complainant, February 4, 1918.

9947. *MISSOURI PACIFIC R. R. Co. et al. v. St. J. & G. I. Ry. Co. et al.* Division of joint rates on coal. *H. G. Herbel* and *F. G. Wright* for complainants. *A. Miller* for Missouri, Oklahoma & Gulf Ry. Co. Dismissed on request of complainant, February 4, 1918.

9997. *GOLDEN WEST MEAT Co. et al. v. L. A. & S. L. R. R. Co. et al.* Rates on sheep and goats in double-deck cars, or in single-deck cars furnished at carrier's convenience in lieu of double-deck cars ordered, from points in Idaho, Montana, Nevada, Oregon, and Utah, and from California points via an interstate route, to points in California. *Bishop & Bahler* for complainants. *F. E. Murphy, H. A. Scandrett, G. H. Smith, J. O. Moran, A. S. Halsted, F. H. Wood, C. W. Durbrow, G. D. Squires,* and *F. B. Austin* for defendants. Dismissed on request of complainant, February 4, 1918.

10004. *STONE-ORDEAN-WELLS Co. v. O. S. L. R. R. Co. et al.* Rates on canned vegetables and catsup from Morgan, Utah, to Missoula, and other points in Montana. *B. T. Bush* for complainant. *J. F. Finerty, O. W. Dynes, H. A. Scandrett, G. H. Smith,* and *J. O. Moran* for defendants. Complaint satisfied. Dismissed, February 4, 1918.

10006. *CALUMET STEEL Co. v. M. C. R. R. Co. et al.* Steel tubing from Chicago Heights, Ill., to Mishawka and South Bend, Ind. No appearances. Complaint satisfied. Dismissed, March 11, 1918.

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## REPARATION GRANTED UNDER SUPPLEMENTAL ORDERS OF THE COMMISSION DURING THE TIME COVERED BY THIS VOLUME.

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4800. SLOSS-SHEFFIELD STEEL & IRON Co. v. L. & N. R. R. Co. February 4, 1918. Reparation for \$412.14, on shipments of pig iron from Woodward, Ala., Rockwood and Napier, Tenn., to Quincy, Ill., on account of unreasonable rates.

7446. LOOKOUT REFINING Co. v. L. & N. R. R. Co. February 4, 1918. Reparation for \$1,182.56, on shipments of cottonseed stearine, in bags, from Cincinnati, Ohio, to Chattanooga, Tenn., on account of an unreasonable rate.

8630. SCHRAM GLASS MFG. Co. v. St. L. & S. F. R. R. Co. February 4, 1918. Reparation for \$627, on shipments of strawboard boxes, fillers, and partitions from St. Louis, Mo., Baltimore, Ohio, and Vincennes, Ind., to Sapulpa, Okla., on account of unreasonable rates.

8665. MENGEL & BRO. Co. v. L. & N. R. R. Co. February 4, 1918. Reparation for \$89.16, on shipments of rough mahogany lumber from Louisville, Ky., to Pensacola, Fla., for export, on account of unreasonable rate.

8832. TARKIO MOLASSES FEED Co. v. C., B. & Q. R. R. Co. February 4, 1918. Reparation for \$5,359.39, on account of overcharges collected because of erroneous application of rates for flaxseed screenings on shipments of linomeal from Minneapolis, Minn., to Tarkio, Mo.

8849. WESTERN GRAIN & SUGAR PRODUCTS Co. v. B. & O. R. R. Co. February 4, 1918. Reparation for \$11,601.29, on shipments of alcohol from Agnew, Cal., to Philadelphia, Pa., Parlin, N. J., Norfolk, Va., and Chicago, Ill., on account of unreasonable charges.

8877. ACME CEMENT PLASTER Co. v. A., T. & S. F. Ry. Co. February 4, 1918. Reparation for \$227.19, on shipments of portable track and miscellaneous articles used in connection with the mining of gypsum rock from Winslow, Ariz., to Acme, Cal., on account of unreasonable rates.

8902. CREAMERY PACKAGE MFG. Co. v. St. L. & S. F. R. R. Co. February 4, 1918. Reparation for \$439.97, on shipments of wooden hoops from Bay City, Mich., to Blytheville, Ark., on account of unreasonable rate.

8980. AYER & LORD TRE Co. v. I. C. R. R. Co. February 4, 1918. Reparation for \$11,526.81, on shipments of cross-ties from points in Mississippi and Alabama, stopped and treated at Carbondale, Ill., and forwarded to Chicago, Ill., and Indianapolis, Ind., on account of unreasonable charges.

9071. DOLAN FRUIT Co. v. C., B. & Q. R. R. Co. February 4, 1918. Reparation for \$8,070.04, on shipments of bananas from New Orleans, La., and other Gulf ports to Grand Island and Hastings, Nebr., on account of unreasonable rates.

9262. CLINTON SUGAR REFINING Co. v. C., B. & Q. R. R. Co. February 4, 1918. Reparation for \$810.17, on shipments of corn from Illinois points, milled into gluten feed at Clinton, Iowa, and products shipped to certain interstate destinations, on account of unreasonable charges.

9316. INTERNATIONAL PAPER Co. v. M. C. R. R. Co. February 4, 1918. Reparation for \$6.22, on shipment of news printing paper from Livermore Falls, Me., to Boston, Mass., for export, on account of an unreasonable rate.

7940. UNITED STATES CAST IRON PIPE & FOUNDRY Co. v. S. Ry. Co. March 11, 1918. Reparation for \$2,294.88, on shipments of cast iron pipe and fittings from Anniston and Bessemer, Ala., to El Segundo, Cal., on account of an unjustly discriminatory rate.

8404 and 8404 (Sub. No. 1). LINDSAY COMMISSION Co. v. N. P. Ry. Co.; UNION MERCANTILE Co. v. N. P. Ry. Co. March 11, 1918. Reparation for \$876.69, on shipments of dried beans from Kendrick and Troy, Idaho, to Missoula, Butte, and Helena, Mont., on account of unreasonable rates.

8413. BLODGETT MILLING Co. v. C. & N. W. Ry. Co. March 11, 1918. Reparation or \$66.79, on shipments of buckwheat from Janesville, Wis., to Geneva, Ill., on account of unreasonable rate.

8557. NEWPORT LUMBER Co. v. A. & W. R. R. Co. March 11, 1918. Reparation for \$247.60, on shipments of cross-ties from Mamers and Ryes, N. C., to Wayne Junction, Pa., on account of unreasonable rates.

8559. LAWLOR CYCLE Co. v. C., M. & St. P. Ry. Co. March 11, 1918. Reparation for \$113.04, on l. c. l. shipments of motorcycles from Milwaukee, Wis., and Middletown, Ohio, to Lincoln, Nebr., on account of unreasonable rates.

8894. CAMERON & Co. v. A., T. & S. F. Ry. Co. March 11, 1918. Reparation for \$253.45, on shipments of sash, doors, and other millwork from Waco, Tex., to points in Oklahoma, on account of unreasonable rates.

8956. VALLEY SMOKELESS COAL Co. v. PA. R. R. Co. March 11, 1918. Reparation for \$12,016.04, on shipments of coal from mines served by the Johnstown & Stony Creek Railroad Company to eastern interstate destinations, on account of unduly prejudicial rates.

9029. WICHITA TRAFFIC BUREAU v. A., T. & S. F. Ry. Co. March 11, 1918. Reparation to the Southwestern Broom & Warehouse Company for \$104.55, on shipments of brooms from Wichita, Kans., to Sioux City, Iowa, on account of unreasonable rates.

9112. BULLEY & SON v. St. L. & S. F. R. R. Co. March 11, 1918. Reparation for \$75.67, on shipments of cotton from Elgin, Cache, Indianoma, and Davidson, Okla., concentrated and compressed at Lawton, Okla., and subsequently reshipped to New Orleans, La., for export, on account of unreasonable charges.

9410. PROCTER & GAMBLE Co. v. C., C., C. & St. L. Ry. Co. March 11, 1918. Reparation for \$4,942, on shipments of coconut oil from San Francisco, Cal., to Ivorydale, Ohio, on account of unreasonable rate.

NOTE.—The amount of reparation awarded in the above cases aggregates \$61,342.65.

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## TABLE OF COMMODITIES.

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[NOTE.—The number in parentheses following citation indicates where commodity is considered.]

**ASBESTOS SLAG ROOFING.** See Roofing, Asbestos Slag.

**ASPHALT PLANTS.** Shreveport, La., to and from Texas, 312 (347).

**ASPHALTUM.** Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 79.

**AUTOMOBILES, SECOND HAND.** Shreveport, La., to and from Texas, 312 (349).

**BAGGING.** Shreveport, La., to and from Texas, 312 (357).

**BANANAS:**

New Orleans, La., to Tulsa, Okla., 731.

New York, N. Y., Greenville, N. J., Philadelphia, Pa., and Baltimore, Md., to various interstate points. Door boards and slats, 634.

**BARLEY.** Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 79.

**BARRELS.** Shreveport, La., to and from Texas, 312 (354).

**BARS, TWISTED.** Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., 697.

**BASKETS.** Shreveport, La., to and from Texas, 312.

**BAT GUANO.** El Paso, Tex., to Los Angeles, Cal., 427.

**BEAMS.** Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., 697.

**BEANS.** Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 79.

**BEER SUBSTITUTES.** Shreveport, La., to and from Texas, 312 (348).

**BEVERAGES.** Shreveport, La., to and from Texas, 312.

**BLOCKS, SEWER SEGMENT.** Shreveport, La., to and from Texas, 312 (349).

**BOARD, WALL.** California terminals to eastern defined territory, 17.

**BOLTS, IRON.** East Buffalo, N. Y., to Denver, Colo., 487.

**BONES.** El Paso, Tex., to Los Angeles, Cal. 427.

**BOTTLES.** Shreveport, La., to and from Texas, 312 (353).

**BOTTLES, SECOND-HAND EMPTY BEER.** Socorro, N. Mex., to El Paso, Tex., 479.

**BRAN:**

Montgomery, Ala., to Jackson, Miss., 615.

Shreveport, La., to and from Texas, 312.

**BRAN, RICE.** Shreveport, La., to and from Texas, 312.

**BRICK.** Lincoln, Nebr., from Buffalo and Coffeyville, Kans., 275.

**BRICK, COMMON:**

Buffville, Kans., to Brinkley, Ark., 473.

Shreveport, La., to and from Texas, 312 (352).

**BRICK, FIRE.** Shreveport, La., to and from Texas, 312 (352).

**CABINETS, KITCHEN.** Official classification territory. Ratings, 518.

**CANNED GOODS.** Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 79.

**CANS, TIN.** Shreveport, La., to and from Texas, 312 (357).

**CARS, LOGGING.** Damascus, Va., to Judson, N. C., 445.

**CARS, MINING.** Youngstown, Ohio, to Clarkdale, Ariz., 663.

**CASES, TIN.** Shreveport, La., to and from Texas, 312 (357).

**CATTLE:**

Birmingham, Ala., from New Orleans and Milneberg, La., 596.

Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill., 277.

San Francisco, Cal., from Nevada, Utah, Oregon, New Mexico, and California, 470.

**CATTLE, BEEF.** Shreveport, La., to and from Texas, 283.

**CATTLE, FAT.** Tabor, Iowa, to South Omaha, Nebr., 733.

**CATTLE, STOCK.** Shreveport, La., to and from Texas, 283.

**CEMENT:**

Chanute, Kans., to Zion and Macksburg, Iowa, 377.

Kansas to South Dakota, Wyoming, and Montana, 402.

Western trunk line territory to and from adjacent territories, 201.

**CEMENT, ROOFING.** California terminals to eastern defined territory, 17.

**CHAIRS.** Shreveport, La., to and from Texas, 312 (349).

**CHOCOLATE RAW MATERIALS.** Shreveport, La., to and from Texas, 312.

**CISTERNS.** Shreveport, La., to and from Texas, 312 (349).

**CLASS RATES:**

Kansas to and from Texas, 379.

Mayfield, Ky., from trunk line territory, 45.

Mitchell, S. Dak., from points east of Indiana-Illinois state line and north of Potomac and Ohio rivers, 40.

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Shreveport, La., to and from Texas, 312.

**CLOTH, PRESS.** Houston and Houston Heights, Tex., to various destinations, 31.

**COAL, BITUMINOUS.** Baltimore, Md. Trimming charges, 407.

**COATING, ROOF.** See Roof Coating.

**COCONUTS.** New Orleans, La., to Tulsa, Okla., 731.

**COFFEE, GREEN.** Enid, Okla., from New Orleans, La., and Galveston, Tex., 668.

**COLUMNS.** Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., 697.

**COMMODITY RATES:**

Pacific coast ports to and from eastern defined territories, via Galveston, Tex., 79.

Shreveport, La., to and from Texas, 312.

**CORDWOOD.** Shreveport, La., to and from Texas, 283.

**CORN:**

Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans., 507.

Shreveport, La., to and from Texas, 312 (356).

**CORN, BULK:**

Homer, Nebr., to Joplin, Mo., 618.

Hospers, Iowa, to Atchison, Kans., 505.

**COTTON.** Helena, Ark. Concentration and reshipping rates, 490.

**COTTON PIECE GOODS, COARSE.** Shreveport, La., to and from Texas, 312 (347).

**COTTONSEED.** Shreveport, La., to and from Texas, 312 (355).

**COTTON-SEED CAKE:**

Imperial Valley, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, 587.

Shreveport, La., to and from Texas, 312 (355).

Texas from Oklahoma, 297.

**CROSSTIES, IRON AND STEEL.** Huntington, W. Va., to West Virginia and Virginia, 600.

**CULLET.** Winston-Salem, N. C., to New Kensington, Pa., diverted at Potomac Yards, Va., to Jeannette, Pa., 451.

**CULVERTS, CORRUGATED.** Shreveport, La., to and from Texas, 312 (348).

**DOORS, SCREEN.** Adrian, Mich., to Toledo, Ohio, 405.

**DRAYS.** Shreveport, La., to and from Texas, 312 (348).

**DRY GOODS.** Shreveport, La., to and from Texas, 312 (357).

**EMIGRANT MOVABLES.** Boswell, Okla., to Clarksville, Ark., 649.

**EXCELSIOR.** New Orleans, La., to Hattiesburg, Miss., 464.

**FEED.** Montgomery, Ala., to Jackson, Miss., 615

**FEED, HOMINY.** Montgomery, Ala., to Jackson, Miss., 615.

**FEED, VELVET-BRAN.** Montgomery, Ala., to Jackson, Miss., 615.

**FILES.** Shreveport, La., to and from Texas, 312.

**FISHPLATES.** East Buffalo, N. Y., to Denver, Colo., 487.

**FLESHINGS.** Stoneham, Mass., to Keene, N. H., 19.

**FLOUR:**

Butte, Mont., from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts, Idaho, 623.

Lexington, Mo., from Fort Smith and Branch, Ark., 687.

Shreveport, La., to and from Texas, 312 (356).

**FOREST PRODUCTS:**

Canalou, Mo., to Thebes, Ill., destined to official classification territory, 75.

Oregon to Idaho, Montana, and Utah, 481.

**FRUITS.** Shreveport, La., to and from Texas, 312 (354).

**FRUITS, DRIED.** Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 79.

**FURNITURE.** Shreveport, La., to and from Texas, 312 (349).

**GASOLINE.** Kennedy, Ala., from North Baton Rouge, La., and Wood River, Ill., 493.

**GINGER ALE.** Shreveport, La., to and from Texas, 312 (348).

**GIRDERS.** Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., 697.

**GLASS, WINDOW.** Shreveport, La., to and from Texas, 312 (357).

**GLASSWARE, TABLE.** Shreveport, La., to and from Texas, 312.

**GRAIN:**

Butte, Mont., from Idaho, Utah, Wyoming, and Oregon, 623.

Minneapolis, Minn., Omaha, Nebr., Kansas City, and St. Louis, Mo., Chicago and Peoria, Ill., and Milwaukee, Wis., from various points, 530.

Missouri River points in New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Out of line charges, 59.

**GRAIN PRODUCTS:**

Butte, Mont., from Idaho, Utah, Wyoming, and Oregon, 623.

Minneapolis, Minn., Omaha, Nebr., Kansas City and St. Louis, Mo., Chicago and Peoria, Ill., and Milwaukee, Wis., from various points. Loss and damage claims, 530.

Missouri River points to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Out of line charges, 59.

**GRAIN PRODUCTS, Coarse.** Montgomery, Ala., to Jackson, Miss., 615.

**GRAVEL:**

Illinois to Wisconsin, 1.

Shreveport, La., to and from Texas, 312 (349).

**GRITS, BREWERS'.** Montgomery, Ala., to Jackson, Miss., 615.

**GRITS, HOMINY.** Montgomery, Ala., to Jackson, Miss., 615.

**GUANO, BAT.** El Paso, Tex., to Los Angeles, Cal., 427.

**GUIDES, ELEVATOR.** East Buffalo, N. Y., to Denver, Colo., 487.

**HAY:**

Augusta, Wis., to Chicago, Ill., reconsigned at Madison, Wis., 691.

Butte, Mont., from Idaho, Utah, Wyoming, and Oregon, 623.

Long Island City, N. Y. Demurrage, 25.

Madison, Wis., and Chicago, Ill. Demurrage, 691.

Missouri River points to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Out of line charges, 59.

Shreveport, La., to and from Texas, 312 (356).

- HAY, BALED.** Fort Jennings, Ohio, to Glenside, Pa., reconsigned to Paterson, N. J., 441.
- HOGS:**  
 Birmingham, Ala., from New Orleans, and Milneberg, La., 596.  
 Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill., 277.  
 San Francisco, Cal., from Nevada, Utah, Oregon, New Mexico, and California, 470.  
 Tabor, Iowa, to South Omaha, Nebr., 733.
- HORSES:**  
 Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill., 277.  
 Shreveport, La., to and from Texas, 312 (351).
- HULLS, COTTONSEED:**  
 Shreveport, La., to and from Texas, 312 (355).  
 Texas from Oklahoma, 297.
- HULLS, RICE.** Shreveport, La., to and from Texas, 312.
- IMPLEMENTS, AGRICULTURAL.** Shreveport, La., to and from Texas, 312 (357).
- IRON ARTICLES:**  
 Cincinnati, Ohio, to Chattanooga, Tenn., 8.  
 Shreveport, La., to and from Texas, 312 (354).
- IRON, BAR.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.
- IRON, SCRAP.** Harrisburg, Pa., from Atlanta, and Augusta, Ga., 703.
- IRON, STRUCTURAL.** Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., 697.
- JACKS, PUMP.** Shreveport, La., to and from Texas, 312 (348).
- JARS, GLASS FRUIT.** Shreveport, La., to and from Texas, 312 (353).
- JUNK.** Shreveport, La., to and from Texas, 312 (353).
- KEGS, EMPTY.** Shreveport, La., to and from Texas, 312 (354).
- KITCHEN CABINETS.** See Cabinets.
- KITS, WOODEN.** Western trunk line territory. Ratings, 708.
- LAMBS.** San Francisco, Cal., from Nevada, Utah, Oregon, New Mexico, and California, 470.
- LETTUCE.** San Benito and Mercedes, Tex. Precooling, 510.
- LIGNITE.** Shreveport, La., to and from Texas, 283.
- LIMESTONE, CRUSHED.** Ada, Okla., to Texas, 266.
- LIVE STOCK:**  
 Birmingham, Ala., from New Orleans and Milneberg, La., 596.  
 Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill., 277.  
 San Francisco, Cal., from Nevada, Utah, Oregon, New Mexico, and California, 470.  
 Tabor, Iowa, to South Omaha, Nebr., 733.
- LOCKS, DOOR.** Shreveport, La., to and from Texas, 312.
- LOGS, WALNUT.** Memphis, Tenn., from Jackson and Aberdeen, Miss., 496.
- LUMBER:**  
 Detroit, Mich. Demurrage, 463.  
 Detroit, Mich., to East Cambridge, Mass., 699.  
 Eagle Pass, Tex., from Louisiana and eastern Texas, reconsigned to Mexico, 693.  
 Las Cruces, N. Mex., from Louisiana and Texas, 65.  
 Montana from Libby, Columbia Falls, Kalispell, and Somers, Mont., and Bonners Ferry, Idaho, 5.  
 North Carolina to Norfolk and Pinners Point, Va., and Trunk Line and New England territories, 475.

**LUMBER—Continued.**

Thebes, Ill., from Junk's Spur, Waterproof, St. Joseph, Newellton, Sondheimer, Lake Providence, and Milliken, La., 457.

Virginia and West Virginia to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md., 715.

Washington and Idaho to Kansas and Colorado, 627.

Wiggins, Miss. Switching and weighing, 705.

**LUMBER, FIR:**

North Dakota, from Waldo, British Columbia, 435.

Oregon to Idaho, Montana, and Utah, 481.

Washington and Idaho to Kansas and Colorado, 627.

**LUMBER, GUM.** Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., 665.

**LUMBER, HARDWOOD:**

Andrews, N. C., to North Philadelphia, Pa., diverted to Cooper's Point, Camden, N. J., 679.

Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., 665.

Texas to Texas City and Galveston, Tex., for export and coastwise movement, 22.

**LUMBER, OAK:**

Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., 665.

Little Rock, Ark., to Thebes, Ill., and reshipped to Minneapolis, Minn., 468.

**LUMBER, PINE:**

Kittanning, Pa., from Louisiana, Mississippi, and Alabama, 433.

North Dakota, from Waldo, British Columbia, 435.

Washington and Idaho to Kansas and Colorado, 627.

**LUMBER, ROUGH GUM.** Clio, Ark., to Peru, Ind., stopped in transit at Thebes, Ill., 436.

**LUMBER, YELLOW-PINE:**

Fullerton, La., to Kansas and Nebraska, 461.

Las Cruces, N. Mex., from Texas and Louisiana, 62.

Louisiana and Mississippi to Metropolis, Ill., and Paducah, Ky., 443.

Texas to Texas City and Galveston, Tex., for export and coastwise movement, 22.

**MACHINERY.** Harrisburg, Pa., from Atlanta, and Augusta, Ga., 703.

**MACHINERY, GIN AND IRRIGATION.** Shreveport, La., to and from Texas, 312 (353).

**MACHINERY, SECOND-HAND.** Shreveport, La., to and from Texas, 312 (349).

**MANURE SPREADER.** See Spreader, Manure.

**MATTRESSES.** Sugar Land and Houston, Tex., to Chicago, Ill., and St. Joseph, Mo., 447.

**MEAL, BREWERS'.** Montgomery, Ala., to Jackson, Miss., 615.

**MEAL, CORN.** Montgomery, Ala., to Jackson, Miss., 615.

**MEAL, COTTONSEED:**

Eldorado, Ark., to Colfax, Wis., 421.

Imperial Valley, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, 587.

Shreveport, La., to and from Texas, 312 (355).

Texas from Oklahoma, 297.

**MEAL, VELVET-BEAN.** Montgomery, Ala., to Jackson, Miss., 615.

**MEATS, FRESH:**

Cedar Rapids, Iowa, to Various destinations, 295.

Chicago and East St. Louis, Ill., to Ohio and West Virginia. Peddler cars, 525.

**MELONS.** Shreveport, La., to and from Texas, 312 (354).

**MIDLINGS.** Montgomery, Ala., to Jackson, Miss., 615.

**MILK, CONDENSED AND EVAPORATED.** Official classification territory from Mill Hall, Philadelphia, Concordville, and Troy, Pa., and Rising Sun, Md., 425.

**MILL STUFF:**

Butte, Mont., from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts, Idaho, 623.

Montgomery, Ala., to Jackson, Miss., 615.

**MOLASSES, BLACKSTRAP:**

New Orleans, La., to Orange, Tex., 673.

Philadelphia, Pa., 77.

Shreveport, La., to and from Texas, 312 (355).

**MULES:**

Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill., 277.

Shreveport, La., to and from Texas, 312 (351).

**NAILS.** Shreveport, La., to and from Texas, 312.

**OATS.** Blanket, Tex., to Mobile, Ala., stopped in transit at Sherman, Tex., 671.

**OIL, COTTONSEED.** Shreveport, La., to and from Texas, 312.

**OIL, LUBRICATING.** New York, N. Y. Demurrage, 611.

**OIL, PEANUT.** Ivorydale, Ohio, from Texas, 701.

**OIL, REFINED PETROLEUM:**

Kennedy, Ala., from North Baton Rouge, La., and Wood River, Ill., 493.

Shreveport, La., to and from Texas, 312 (357).

**ORE, IRON.** Lake Erie ports to Monessen and Donora, Pa., 650.

**OYSTERS.** St. Louis, Mo., to Fort Worth and Dallas, Tex., originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y., 438.

**PACKING-HOUSE PRODUCTS:**

Cedar Rapids, Iowa, to various destinations, 295.

Chicago and East St. Louis, Ill., to Ohio and West Virginia. Peddler Cars, 525.

**PAILS, FIBER BOARD.** Western trunk line territory. Ratings, 708.

**PAILS, TIN.** Shreveport, La., to and from Texas, 312 (357).

**PAILS, WOODEN.** Western trunk line territory. Ratings, 708.

**PAPER, BUILDING.** California terminals to eastern defined territory, 17.

**PAPER, PRINTING.** Shreveport, La., to and from Texas, 312.

**PAPER, ROOFING.** California terminals to eastern defined territory, 17.

**PAPER, SCRAP.** Oklahoma City, Okla., to Dallas and Oak Cliff, Tex., 266.

**PAPER, WRAPPING.** Shreveport, La., to and from Texas, 312.

**PASTE, GLUCOSE.** New York, N. Y., to Atlanta, Ga., 413.

**PEACHES.** Utah to eastern destinations, 429.

**PEANUTS, UNSHELLED.** Shreveport, La., to and from Texas, 312 (356).

**PETROLEUM.** Oklahoma to various destinations, 737.

**PETROLEUM PRODUCTS.** Oklahoma to various destinations, 737.

**PINEAPPLES.** New Orleans, La., to Tulsa, Okla., 731.

**PIPE, IRON.** Shreveport, La., to and from Texas, 312 (357).

**PIPE, SEWER:**

Chattanooga, Tenn., to North Carolina, 642.

Shreveport, La., to and from Texas, 312 (349).

**PIPE, STEEL.** Shreveport, La., to and from Texas, 312 (357).

**PIPE, WROUGHT IRON AND STEEL.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**PLATES, IRON.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**PLATES, STEEL.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**POLES, CEDAR:**

Bayview, Idaho, to Whiting, Ind., 415.

Culver, Idaho, to Twin Falls, Idaho, via Spokane, Wash., 418.

Washington and Idaho to Kansas and Colorado, 627.

**POSTS, CEDAR.** Washington and Idaho to Kansas and Colorado, 627.

**POTATOES:**

Helena, Ark., from Minnesota, Wisconsin, Colorado, and Wyoming, 307.

Minnesota to Official classification territory east of Indiana-Illinois state line, 303.

Shawnee district, Oklahoma, to Texas, 266.

Shreveport, La., to and from Texas, 312 (354).

**POULTRY, LIVE.** Mitchell, S. Dak., to New York, N. Y., 40.

**PULP, WET RAG.** Official classification territory. Ratings, 515.

**RAILS, IRON.** Huntington, W. Va., to West Virginia and Virginia, 600.

**RAILS, OLD STEEL.** Pittsburgh, Pa., to Huntington, W. Va., 675.

**RAILS, STEEL.** Huntington, W. Va., to West Virginia and Virginia, 600.

**RASPS.** Shreveport, La., to and from Texas, 312.

**RIVETS, IRON.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**RIVETS, STEEL.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**ROCK, CRUSHED.** Pixleys, Mo., to Kansas City, Kans., 577.

**ROLL SCALES.** Elizabethport, N. J., to Coatesville, Pa., 465.

**ROLLERS, WOODEN.** Baton Rouge, La., to Gilman, Mont., 695.

**ROOF COATING.** California terminals to eastern defined territory, 17.

**ROOFING, ASBESTOS SLAG.** California terminals to eastern defined territory, 17.

**SALT.** Rittman, Ohio, to Iron River, Mich., 423.

**SALT, ROCK.** Tulsa, Okla., from Lyons and Kanapolis, Kans., 684.

**SAND:**

Illinois to Wisconsin, 1.

Shreveport, La., to and from Texas, 312 (349).

West Tulsa, Okla., to Fairview and Wheaton, Mo., 485.

**SCALES, ROLL.** Elizabethport, N. J., to Coatesville, Pa., 465.

**SCREENINGS, GRAIN:**

Montgomery, Ala., to Jackson, Miss., 615.

Western trunk line territory, 576.

**SCREENS, WINDOW.** Adrian, Mich., to Toledo, Ohio, 405.

**SEEDS.** Missouri River points to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Out of line charges, 59.

**SHEEP:**

Birmingham, Ala., from New Orleans and Milneberg, La., 596.

Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill., 277.

San Francisco, Cal., from Nevada, Utah, Oregon, New Mexico, and California, 470.

Tabor, Iowa, to South Omaha, Nebr., 733.

**SHELLFISH.** St. Louis, Mo., to Fort Worth and Dallas, Tex., originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y., 438.

**SHINGLES, CYPRESS.** McKenzie, Tenn., from McKenzie, Natchez, and Vicksburg, Miss., 499.

**SHIP STUFF.** Montgomery, Ala., to Jackson, Miss., 615.

**SHOES, HORSE.** Shreveport, La., to and from Texas, 312.

**SHOES, MULE.** Shreveport, La., to and from Texas, 312.

**SHORTS.** Montgomery, Ala., to Jackson, Miss., 615.

**SILO MATERIAL:**

Chicago, Ill., to La Grange, Arnold, Elizabethtown, and Morganfield, Ky. Fourth section, 13.

Napanea, Ind., to Elizabethtown, Morganfield, La Grange, Arnold, Lancaster, and Taylorsville, Ky., 13.

**SOAP.** Southern classification territory from Glastonbury and East Hartford, Conn., 269.

**SPREADER, MANURE.** Aladdin, Iowa, to Fish Creek, Wis., via Sturgeon Bay, Wis., 455.

**STAVES, OAK.** Harrison, Ark., to Dupo, Ill., reconsigned to New York, N. Y., 449.  
**STAVES, SLACK BARREL COOPERAGE.** Canalou, Mo., to Thebes, Ill., destined to official classification territory, 75.

**STEEL ARTICLES:**

Cincinnati, Ohio, to Chattanooga, Tenn., 8.

Shreveport, La., to and from Texas, 312 (354).

**STEEL, BAR.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**STEEL, STRUCTURAL.** Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., 697.

**STONE.** Westport, and Newport, Ind., to various destinations, 637.

**STONE, ARTIFICIAL.** St. Louis, Mo., to Drumright, Okla., 689.

**STONE, ROUGH.** Shreveport, La., to and from Texas, 312.

**STRAW:**

Butte, Mont., from Idaho, Utah, Wyoming, and Oregon, 623.

Missouri River points to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Kans. Out of line charges, 59.

**STRUCTURAL MATERIAL.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**SUGAR:**

Montana, from San Francisco, Oakland, Crockett, and Potrero, Cal., 657.

Southeastern points from New Orleans, La., and north and south Atlantic ports, 739.

**TABLES, KITCHEN.** Official classification territory. Ratings, 518.

**TABLES, KITCHEN CABINET.** Official classification territory. Ratings, 518.

**TANK BOTTOMS.** Shreveport, La., to and from Texas, 312.

**TANKS, SHEET IRON.** Shreveport, La., to and from Texas, 312 (349).

**TIES, BAG.** Shreveport, La., to and from Texas, 312 (357).

**TIN ARTICLES.** Shreveport, La., to and from Texas, 312.

**TOBACCO.** Mayfield, Ky., to trunk line territory, 45.

**TOOLS.** Shreveport, La., to and from Texas, 312.

**TRUCKS.** Shreveport, La., to and from Texas, 312 (348).

**TUBES, BOILER.** Cincinnati, Ohio, to Chattanooga, Tenn., 8.

**TUBS, BUTTER.** Western trunk line territory. Ratings, 708.

**TUBS, WOODEN.** Western trunk line territory. Ratings, 708.

**TURNIPS.** Shreveport, La., to and from Texas, 312 (354).

**TWINE, BINDER.** Shreveport, La., to and from Texas, 312.

**VARNISH REMOVER.** Kansas City, Mo. Storage charges, 453.

**VEGETABLES.** Shreveport, La., to and from Texas, 312 (354).

**VEGETABLES, PRECOOLED.** San Benito and Mercedes, Tex., 510.

**WAGONS.** Shreveport, La., to and from Texas, 312 (348).

**WATER, MINERAL AND SPRING.** Shreveport, La., to and from Texas, 312.

**WATER, SODA.** Shreveport, La., to and from Texas, 312 (348).

**WHEAT:**

Chicago, Ill., to southeastern Carolina territories, milled in transit at Knoxville, Tenn., 647.

Shreveport, La., to and from Texas, 312 (356).

Xenia, Ohio, to New York, N. Y., 467.

**WHISKY.** Louisville, Ky., to Joplin, Mo., 681.

**WINDMILLS.** Shreveport, La., to and from Texas, 312 (348).

**WINE.** Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 79.

**WIRE.** Shreveport, La., to and from Texas, 312.

**WOOD.** Shreveport, La., to and from Texas, 283.

**WOOD, CHESTNUT EXTRACT.** Georgia, to Andrews, N. C., 582.

**WOOL, IN THE GREASE.** Nelson, now Ellison, and Winnemucca, Nev., to Smoot and Provo, Utah, 501.

## TABLE OF LOCALITIES.

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[NOTE.—The number in parentheses following citation indicates where locality is considered.]

- Aberdeen, Miss., to Memphis, Tenn. Walnut logs, 496.
- Aberdeen, S. Dak., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Abilene, Kans., from Missouri River points, destined to New Orleans, La., and Mobile, Ala. Grain and grain products; out of line charges, 59.
- Ada, Okla., to Minnesota, Iowa, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Kansas, Colorado, and Missouri. Cement, 201 (255-256).
- Ada, Okla., to Texas. Crushed limestone, 266.
- Adrian, Mich., to Toledo, Ohio. Screen doors and window screens, 405.
- Alabama from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Alabama to Kittanning, Pa. Pine lumber, 433.
- Alabama to Pacific coast points, destined to Japan, China, Philippine Islands, Central and South America, and Mexico. Commodity rates, 79 (90).
- Aladdin, Iowa, to Fish Creek, Wis., via Sturgeon Bay, Wis. Manuré spreader, 455.
- Albany, N. Y., from Virginia and West Virginia. Lumber, 715.
- Alexandria, La., to Las Cruces, N. Mex. Yellow-pine lumber, 62.
- Algonquin, Ill., to Wisconsin. Sand and gravel, 1.
- Altoona, Pa., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Amarillo, Tex., from Shawnee district, Okla. Potatoes, 266.
- Amburg, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Amedee, Cal., from Imperial Valley of California, via an interstate route. Cottonseed cake and cottonseed meal, 587 (592).
- Amherst, Ohio, to and from Lake Shore Junction, Ohio. Through rates, 69.
- Andrews, N. C., from Georgia. Chestnut extract wood, 582.
- Andrews, N. C., to North Philadelphia Pa., diverted to Coopers Point, Camden, N. J. Hardwood lumber, 679.
- Arkansas to Boston, Mass. Cotton, 490.
- Arkansas to Pacific coast points, destined to Japan, China, Philippine Islands, Central and South America, and Mexico. Commodity rates, 79 (90).
- Arkansas City, Ark., to Boston, Mass. Cotton, 490.
- Armourdale, Kans., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- Armstead, Mont., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Arnold, Ky., from Napanee, Ind., and Chicago, Ill. Silo material, 13.
- Ashton, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Asia to and from various points in the United States via Pacific coast ports. Commodity rates, 79.
- Astoria, Oreg., to Idaho, Montana, and Utah. Lumber and forest products, 481.
- Atchison, Kans., from Hospers, Iowa. Bulk corn, 505.

- Atchison, Kans., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products, out of line charges, 59.
- Atkins, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island,<sup>9</sup> and Baltimore, Md. Lumber, 715.
- Atlanta, Ga., from Belzoni, Miss. Lumber, 665.
- Atlanta, Ga., to Harrisburg, Pa. Scrap iron and machinery, 703.
- Atlanta, Ga., from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Atlanta, Ga., from New Orleans, La. Sugar, 739 (740).
- Atlanta, Ga., from New York, N. Y. Glucose paste, 413.
- Atlantic seaboard from Pacific coast ports, via Galveston, Tex. Barley, beans, canned goods, asphaltum, dried fruits, and wine, 79.
- Augusta, Ga., to Harrisburg, Pa. Scrap iron and machinery, 703.
- Augusta, Wis., to Chicago, Ill., reconsigned at Madison, Wis. Hay; demurrage, 691.
- Australia to and from various points in the United States, via Pacific coast ports. Commodity rates, 79.
- Baltimore, Md. Trimming charges on bituminous coal, 407.
- Baltimore, Md., to various destinations. Bananas; door boards and slats, 634.
- Baltimore, Md., from Virginia and West Virginia. Lumber, 715.
- Baton Rouge, La., to Gilman, Mont. Wooden rollers, 695.
- Bayshore, N. Y., to St. Louis, Mo., destined to Fort Worth and Dallas, Tex. Oysters and other shellfish, 438.
- Bayview, Idaho, to Whiting, Ind. Cedar poles, 415.
- Beaumont, Tex., to Las Cruces, N. Mex. Yellow-pine lumber, 62.
- Belgrade, Mont., from California. Sugar, 657 (659).
- Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga. Lumber, 665.
- Benton, Mont., from California. Sugar, 657 (659).
- Beryl, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Birmingham, Ala., from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Birmingham, Ala., from New Orleans and Milneberg, La. Cattle, hogs, and sheep, 596.
- Blackfoot, Idaho, to Butte, Mont. Flour and mill stuffs, 623.
- Blackfoot, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Blakes Junction, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Blanket, Tex., to Mobile, Ala., stopped in transit at Sherman, Tex. Oats, 671.
- Boardman, N. C., to Norfolk, and Pinners Point, Va. Lumber, 475.
- Bonner Springs, Kans., to Oklahoma. Cement; fourth section, 201 (258).
- Bonner Springs, Kans., to South Dakota, Wyoming, and Montana. Cement, 403.
- Boston, Mass., from Arkansas and Louisiana. Cotton, 490.
- Boston, Mass., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Boston, Mass., from Virginia and West Virginia. Lumber, 715.
- Boswell, Okla., to Clarksville, Ark. Emigrant movables, 649.
- Bozeman, Mont., from California. Sugar, 657 (659).
- Branch, Ark., to Lexington, Mo. Flour, 687.
- Brawley, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California. Cottonseed cake and cottonseed meal, 587 (590).
- Brigham, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Brinkley, Ark., from Buffville, Kans. Common brick, 473.
- Brogan, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).

- Brooklyn, N. Y., from Long Island City, N. Y. Hay, 25.
- Buffalo, Kans., to Lincoln, Nebr. Brick, 275.
- Buffalo, N. Y., from Virginia and West Virginia. Lumber, 715.
- Buffville, Kans., to Brinkley, Ark. Common brick, 473.
- Buhl, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Bushwick station, Brooklyn, N. Y., from Long Island City, N. Y. Hay, 25.
- Butte, Mont., from California. Sugar, 657 (659).
- Butte, Mont., from Idaho, Utah, Wyoming, and Oregon. Grain, grain products, hay, and straw, 623.
- Butte, Mont., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Cairo, Ill., from Nashville, Tenn. Live stock, 277.
- Calxico, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California. Cottonseed cake and cottonseed meal, 587 (590).
- California from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587.
- California to Montana. Sugar, 657.
- California from New York, N. Y., via Galveston, Tex. Commodity rates, 79.
- California to San Francisco, Cal. Live stock, 470.
- California terminals to eastern defined territory. Roofing paper and other commodities, 17.
- Calneva, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (592).
- Calvit, La., to Boston, Mass. Cotton, 490.
- Cambridge, Idaho, from Imperial Valley of California. Cottonseed meal and cottonseed cake, 587 (594).
- Camden, N. J., from Andrews, N. C., diverted at North Philadelphia, Pa. Hardwood lumber, 679.
- Canada from New York, N. Y., Greenville, N. J., Philadelphia, Pa., and Baltimore. Md. Bananas; door boards and slats, 634.
- Canada from Pacific coast ports, originating in Asia, Australia, Central and South America, Mexico, and Hawaiian Islands. Commodity rates, 79 (81-92).
- Canalou, Mo., to Thebes, Ill., destined to official classification territory. Forest products, 75.
- Careywood, Idaho, to Colorado and Kansas. Pine and fir lumber, cedar poles and posts, 627.
- Carmona, Tex., to Texas City and Galveston, Tex., for export and coastwise movement. Yellow pine and hardwood lumber, 22.
- Carpentersville, Ill., to Wisconsin. Sand and gravel, 1.
- Cary, Ill., to Wisconsin. Sand and gravel, 1.
- Caryhurst, Utah, to eastern destinations. Peaches, 429.
- Cedar Rapids, Iowa, from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Cedar Rapids, Iowa, to various destinations. Fresh meats and packing-house products, 295.
- Central America to and from various points in the United States via Pacific coast ports. Commodity rates, 79.
- C. F. A. territory from Houston and Houston Heights, Tex. Press cloth, 31.
- Chanute, Kans., to Zion and Macksburg, Iowa. Cement, 377.
- Charlotte, N. C., from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Chattanooga, Tenn., from Cincinnati, Ohio. Iron and steel articles, 8.
- Chattanooga, Tenn., from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Chattanooga, Tenn., to North Carolina. Sewer pipe, 642.

- Chicago, Ill. Hay; demurrage, 691.
- Chicago, Ill., from Augusta, Wis., reconsigned at Madison, Wis. Hay; demurrage, 691.
- Chicago, Ill., to Columbus, Gallipolis, and Cincinnati, Ohio, and Naugatuck, W. Va. Fresh meats and packing-house products, 525.
- Chicago, Ill., to La Grange, Arnold, Elizabethtown, and Morganfield, Ky. Silo material; fourth section, 13.
- Chicago, Ill., from Michigan and Indiana. Cement, 201 (206).
- Chicago, Ill., to southeastern Carolina territories, milled in transit at Knoxville, Tenn. Wheat, 647.
- Chicago, Ill., from Sugar Land and Houston, Tex. Mattresses, 447.
- Chicago, Ill., from various points. Loss and damage claims of grain, 530.
- Chilli, Wis., to Chicago, Ill. Hay, 691.
- China from various points in the United States via Pacific coast ports. Commodity rates, 79.
- Cincinnati, Ohio, to Chattanooga, Tenn. Iron and steel articles, 8.
- Cincinnati, Ohio, from Chicago and East St. Louis, Ill. Fresh meats and packing house products, 525.
- Cincinnati, Ohio, from Nashville, Tenn. Live stock, 277.
- Claremont, Minn., to Chicago, Ill. Hay, 691.
- Clarkdale, Ariz., from Youngstown, Ohio. Mine cars, 663.
- Clarksville, Ark., from Boswell, Okla. Emigrant movables, 649.
- Cleburne, Tex., to Ivorydale, Ohio. Peanut oil, 701.
- Cleveland, Ohio, from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Clio, Ark., to Peru, Ind., stopped in transit at Thebes, Ill. Rough gum lumber, 436.
- Coatesville, Pa., from Elizabethport, N. J. Roll scale, 465.
- Coffeyville, Kans., to Lincoln, Nebr. Brick, 275.
- Colfax, Wis., from Eldorado, Ark. Cottonseed meal, 421.
- Colorado to Helena, Ark. Potatoes, 307.
- Colorado from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587.
- Colorado to Pacific coast points, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (90).
- Colorado from Washington and Idaho. Pine and fir lumber, cedar poles and posts, 627.
- Colorado to western trunk line territory. Cement, 201 (206).
- Columbia, S. C., from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Columbus, Ga., from Belzoni, Miss. Lumber, 665.
- Columbus, Ohio, from Chicago and East St. Louis, Ill. Fresh meats and packing house products, 525.
- Comanche, Tex., to Ivorydale, Ohio. Peanut oil, 701.
- Concordville, Pa., to official classification territory. Milk, 425.
- Connecticut to Mayfield and Graves county, Ky. Class rates, 45.
- Connecticut from Virginia and West Virginia. Lumber, 715.
- Continental, Mo., to Oklahoma. Cement; fourth section, 201 (258).
- Cooper's Point, N. J., from Andrews, N. C., diverted at North Philadelphia, Pa. Hardwood lumber, 679.
- Council Bluffs, Iowa, to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products. Out of line charges, 59.
- Crane, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Crockett, Cal., to Montana. Sugar, 657.
- Crossett, Ark., to Boston, Mass. Cotton, 490.

- Crystal Lake, Ill., to Wisconsin. Sand and gravel, 1.
- Culver, Idaho, to Twin Falls, Idaho, via Spokane, Wash. Cedar poles, 418.
- Culver Spur, Idaho, to Colorado and Kansas. Pine and fir lumber, cedar poles and posts, 627.
- Dallas, Tex., to Ivorydale, Ohio. Peanut oil, 701.
- Dallas, Tex., from Oklahoma City, Okla. Scrap paper, 266.
- Dallas, Tex., from St. Louis, Mo., originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y. Oysters and other shellfish, 438.
- Dalton, Ga., from Belzoni, Miss. Lumber, 665.
- Damascus, Va., to Judson, N. C. Logging cars, 445.
- Deer Lodge, Mont., from California. Sugar, 657 (659).
- Deerfield, Kans., from Washington and Idaho. Pine and fir lumber, cedar poles and posts, 627.
- Delaware to Mayfield and Graves county, Ky. Class rates, 45.
- Denver, Colo., from East Buffalo, N. Y. Elevator guides, iron bolts, and fishplates, 487.
- Detroit, Mich. Demurrage charges on lumber, 463.
- Detroit, Mich., to East Cambridge, Mass. Lumber, 699.
- Dewey, Okla., to western trunk line territory. Cement, 201 (206).
- Dillon, Mont., from California. Sugar, 657 (659).
- Donora, Pa., from Lake Erie ports. Iron ore, 650.
- Doran, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Drummond, Mont., from California. Sugar, 657 (659).
- Drumright, Okla., from St. Louis, Mo. Artificial stone, 689.
- Duluth, Minn., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Dupo, Ill., from Harrison, Ark., reconsigned to New York, N. Y. Oak staves, 449.
- Dyersdale, Tex., to Las Cruces, N. Mex. Yellow-pine lumber, 62.
- Eagle Lake, Tex., to Shamrock, Groom, and Amarillo, Tex. Potatoes, 266 (267).
- Eagle Pass, Tex., from Louisiana and Texas, reconsigned to Mexico. Lumber, 693.
- East Buffalo, N. Y., to Denver, Colo. Elevator guides, iron bolts, and fishplates, 487.
- East Cambridge, Mass., from Detroit, Mich. Lumber, 699.
- East Hartford, Conn., to Southern classification territory. Soap, 269.
- East St. Louis, Ill., to Columbus and Cincinnati, Ohio, and Naugatuck, W. Va. Fresh meats and packing house products, 525.
- East St. Louis, Ill., from Nashville, Tenn. Live stock, 277.
- Eastern defined territories to Pacific coast. Commodity rates, 79.
- Eastern defined territories to Pacific coast ports, for export to Japan, Australia, New Zealand, Fiji Islands, Philippine Islands, and Asia. Commodity rates, 79.
- Eastern defined territory from California terminals. Roofing paper and other commodities, 17.
- Eastern destinations from Utah. Peaches, 429.
- Echo, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Eden, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- El Centro, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California. Cottonseed cake and cottonseed meal, 587 (590).
- El Paso, Tex., to Los Angeles, Cal. Bat guano and bones, 427.
- El Paso, Tex., from Socorro, N. Mex. Second-hand empty beer bottles, 479.
- Eldorado, Ark., to Colfax, Wis. Cottonseed meal, 421.
- Elgin, Ill., to various destinations. Woodenware, 708.

- Elgin, Ill., to Wisconsin. Sand and gravel, 1.
- Elizabethport, N. J., to Coatesville, Pa. Roll scale, 465.
- Elizabethtown, Ky., from Napanee, Ind., and Chicago, Ill. Silo material; fourth section, 13.
- Ellison, Nev., to Smoot and Provo, Utah. Wool in the grease, 501.
- Emmett, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Enid, Okla., from New Orleans, La., and Galveston, Tex. Green coffee, 668.
- Enterprise, Kans., from Missouri River points, destined to New Orleans, La., and Mobile, Ala. Grain and grain products; out of line charges, 59.
- Evansville, Ind., from Nashville, Tenn. Live stock, 277.
- Fairfield, Ark., to Boston, Mass. Cotton, 490.
- Fairview, Mo., from West Tulsa, Okla. Sand, 485.
- Fairwood, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Fallon, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Fiji Islands to and from various points in the United States, via Pacific coast ports. Commodity rates, 79.
- Fish Creek, Wis., from Aladdin, Iowa, via Sturgeon Bay, Wis. Manure spreader, 455.
- Flagler, Colo., from Washington, and Idaho. Pine and fir lumber, cedar poles and posts, 627.
- Fort Jennings, Ohio, to Glenside, Pa., reconsigned to Paterson, N. J. Baled hay, 441.
- Fort Leavenworth, Kans., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products out of line charges, 59.
- Fort Smith, Ark., to Lexington, Mo. Flour, 687.
- Fort Worth, Tex., to and from Oklahoma. Class rates, 379 (381).
- Fort Worth, Tex., from St. Louis, Mo., originating at Providence, R. I., South Norwalk, Conn., and Bay Shore, N. Y. Oysters and other shellfish, 438.
- Fox Lake, Ill., to Wisconsin. Sand and gravel, 1.
- Fullerton, La., to Kansas and Nebraska. Yellow pine lumber, 461.
- Gallipolis, Ohio, from Chicago, Ill. Fresh meats and packing-house products, 525.
- Galveston, Tex., from eastern defined territories, destined to Pacific coast. Commodity rates, 79.
- Galveston, Tex., to Enid, Okla. Green coffee, 668.
- Galveston, Tex., to and from Oklahoma. Class rates, 379 (382).
- Galveston, Tex., from Onalaska, Westville, Sequoyah, and Carmona, Tex., for export and coastwise movement. Yellow pine and hardwood lumber, 22.
- Georgia to Andrews, N. C. Chestnut extract wood, 582.
- Georgia from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Gilman, Mont., from Baton Rouge, La. Wooden rollers, 695.
- Gilmore, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Gilmore City, Iowa, to interstate destinations. Cement, 201 (249).
- Glamorgan, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Glastonbury, Conn., to Southern classification territory. Soap, 269.
- Glenside, Pa., from Fort Jennings, Ohio, reconsigned to Paterson, N. J. Baled hay, 441.
- Grand Junction, Colo., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Granger, Wyo., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).

- Graves County, Ky., from trunk line territory. Class rates, 45.
- Great Falls, Mont., from California. Sugar, 657 (659).
- Greenville, N. J., to various destinations. Bananas; door boards and slats, 634.
- Groom, Tex., from Oklahoma. Potatoes, 266.
- Gulf ports from Missouri River points, milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products; out of line charges, 59.
- Harrisburg, Pa., from Augusta, and Atlanta, Ga., Scrap iron and machinery, 703.
- Harrison, Ark., to Dupon, Ill., reconsigned to New York, N. Y. Oak staves, 449.
- Hattiesburg, Miss., from New Orleans, La. Excelsior, 464.
- Havre, Mont., from California. Sugar, 657 (659).
- Hawaiian Islands to various points in the United States and Canada, via Pacific coast ports. Commodity rates, 79.
- Heber, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California. Cottonseed cake and cottonseed meal, 587 (590).
- Helena, Ark. Concentration and reshipping rates on cotton, 490.
- Helena, Ark., from Minnesota, Wisconsin, Colorado, and Wyoming. Potatoes, 307.
- Helena, Mont., from California. Sugar, 657 (659).
- Herndon, W. Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Hill City, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Homedale, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Homer, Nebr., to Joplin, Mo. Bulk corn, 618.
- Honaker, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Hospers, Iowa, to Atchison, Kans. Bulk corn, 505.
- Houston, Tex., to Chicago, Ill. Mattresses, 447.
- Houston, Tex., to and from Oklahoma. Class rates, 379 (382).
- Houston Heights, Tex., to various destinations. Press cloth, 31.
- Huntington, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Huntington, W. Va., from Pittsburgh, Pa. Old steel rails, 675.
- Huntington, W. Va., to West Virginia and Virginia. Iron and steel rails and cross-ties, 600.
- Hutchinson, Kans., from Missouri River points, destined to New Orleans, La., and Mobile, Ala. Grain and grain products; out of line charges, 59.
- Idaho to Butte, Mont. Grain, grain products, hay, and straw, 623.
- Idaho from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587.
- Idaho to Kansas and Colorado. Pine and fir lumber, cedar poles and posts, 627.
- Idaho from Oregon. Lumber and other forest products, 481.
- Idaho Falls, Idaho, to Butte, Mont. Flour and mill stuffs, 623.
- Idaho Falls, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Illinois to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Illinois to western trunk line territory. Cement, 201 (206).
- Illinois to Wisconsin. Sand and gravel, 1.
- Imperial, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California. Cottonseed cake and cottonseed meal, 587 (590).
- Imperial Valley, Cal., to Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California. Cottonseed cake and cottonseed meal, 587.

- Indiana to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Indiana to western trunk line territory. Cement, 201 (206).
- Indiana-Illinois State line, points east of, from Minnesota. Potatoes, 303.
- Indiana-Illinois State line, points east of, to Mitchell, S. Dak. Class rates, 40.
- Iowa to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Iowa to western trunk line territory. Cement, 201 (206).
- Iron River, Mich., from Rittman, Ohio. Salt, 423.
- Ironton, Ohio. Switching, 620.
- Ivorydale, Ohio, from Texas. Peanut oil, 701.
- Jackson, Miss., to Memphis, Tenn. Walnut logs, 496.
- Jackson, Miss., from Montgomery, Ala. Coarse grain products, 615.
- Japan to and from various points in the United States via Pacific coast ports. Commodity rates, 79.
- Jeannette, Pa., from Winston-Salem, N. C., originally consigned to New Kensington, Pa., and diverted at Potomac Yards, Va. Cullet, 451.
- Johnstown, Pa., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Jonesboro, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Joplin, Mo., from Homer, Nebr. Bulk corn, 618.
- Joplin, Mo., from Louisville, Ky. Whisky, 681.
- Judson, N. C., from Damascus, Va. Logging cars, 445.
- Junks Spur, La., to Thebes, Ill. Lumber, 457.
- Kalispell, Mont., to Montana. Lumber, 5.
- Kanopolis, Kans., to Tulsa, Okla. Rock salt, 684.
- Kansas from Fullerton, La. Yellow-pine lumber, 461.
- Kansas from Oklahoma. Petroleum and products, 737.
- Kansas to Pacific coast ports destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Kansas to South Dakota, Wyoming, and Montana. Cement, 402.
- Kansas to and from Texas. Class rates, 379.
- Kansas from Washington and Idaho. Pine and fir lumber, cedar poles and posts, 627.
- Kansas to western trunk line territory. Cement, 201 (206).
- Kansas City, Kans., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- Kansas City, Kans., from Pixleys, Mo. Crushed rock, 577.
- Kansas City, Mo. Storage charges on varnish remover, 453.
- Kansas City, Mo., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- Kansas City, Mo., from Sheldon, Iowa. Corn, 507.
- Kansas City, Mo., from various points. Loss and damage claims of grain, 530.
- Kansas gas belt to Oklahoma. Cement; fourth section, 201 (258).
- Kansas gas belt to South Dakota, Wyoming, and Montana. Cement, 402.
- Keene, N. H., from Stoneham, Mass. Fleshings, 19.
- Kennedy, Ala., from North Baton Rouge, La., and Wood River, Ill. Petroleum, refined oil and gasoline, 493.
- Kentucky to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, and Mexico. Commodity rates, 79 (90).

- Ketchum, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Kingfisher, Okla., from New Orleans, La., and Galveston, Tex. Green coffee; fourth section, 668 (670).
- Kittanning, Pa., from Louisiana, Mississippi, and Alabama. Pine lumber, 433.
- Klamath Falls, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Klickitat, Wash., to Detroit, Mich. Lumber, 463.
- Knight, Wyo., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Knoxville, Tenn., to southeastern Carolina territories, originating at Chicago, Ill. Wheat, 647.
- Konnarock, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- La Grange, Ky., from Napanee, Ind., and Chicago, Ill. Silo material, 13.
- Lake Charles, La., to Las Cruces, N. Mex. Yellow-pine lumber, 62.
- Lake Erie ports to Monessen and Donora, Pa. Iron ore, 650.
- Lake Providence, La., to Boston, Mass. Cotton, 490.
- Lake Providence, La., to Thebes, Ill. Lumber, 457.
- Lake Shore Junction, Ohio, to and from Amherst and South Amherst, Ohio. Through rates, 69.
- Lake Waccamaw, N. C., to Norfolk and Pinners Point, Va. Lumber, 475.
- Lakeport, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Lakeview, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (592).
- Lamar, Colo., from Washington and Idaho. Pine and fir lumber, cedar poles and posts, 627.
- Lancaster, Ky., from Napanee, Ind. Silo material, 13.
- Laramie, Wyo., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Las Cruces, N. Mex., from Lake Charles and Alexandria, La., and Beaumont, and Dyersdale, Tex. Yellow-pine lumber, 62.
- Las Cruces, N. Mex., from Louisiana and Texas. Lumber, 65.
- Las Cruces, N. Mex., from Texas and Louisiana. Yellow-pine lumber, 62.
- Las Vegas, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Lawton, Okla., to and from Texas. Class rates, 379 (382).
- Leadore, Mont., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Leavenworth, Kans., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- Leavenworth, Kans., from Sheldon, Iowa. Corn, 507.
- Lewistown, Mont., from California. Sugar, 657 (659).
- Lewisville, Tex., to Ivorydale, Ohio. Peanut oil, 701.
- Lexington, Mo., from Fort Smith and Branch, Ark. Flour, 687.
- Libby, Mont., to Montana. Lumber, 5.
- Libertyville, Ill., to Wisconsin. Sand and gravel, 1.
- Lincoln, Idaho, to Butte, Mont. Flour and mill stuffs, 623.
- Lincoln, Nebr., from Buffalo and Coffeyville, Kans. Brick, 275.
- Little Rock, Ark., to Thebes, Ill., and reshipped to Minneapolis, Minn. Oak lumber, 468.

- Livingston, Mont., from California. Sugar, 657 (659).  
 Long Island City, N. Y. Demurrage charges on hay, 25.  
 Los Angeles, Cal., from El Paso, Tex. Bat guano and bones, 427.  
 Louisiana to Boston, Mass. Cotton, 490.  
 Louisiana to Eagle Pass, Tex., reconsigned to Mexico. Lumber, 693.  
 Louisiana to Kittanning, Pa. Pine lumber, 433.  
 Louisiana to Las Cruces, N. Mex. Lumber, 65.  
 Louisiana to Las Cruces, N. Mex. Yellow-pine lumber, 62.  
 Louisiana to Metropolis, Ill., and Paducah, Ky. Yellow-pine lumber, 443.  
 Louisiana to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, and Mexico. Commodity rates, 79 (90).  
 Louisville, Ky., to East Cambridge, Mass., via Detroit, Mich. Lumber, 699.  
 Louisville, Ky., to Joplin, Mo. Whisky, 681.  
 Louisville, Ky., from Nashville, Tenn. Live stock, 277.  
 Lovelock, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).  
 Luna Landing, Ark., to Boston, Mass. Cotton, 490.  
 Lyons, Kans., to Tulsa, Okla. Rock salt, 684.  
 McGehee, Ark., to Boston, Mass. Cotton, 490.  
 McKenzie, Miss., to McKenzie, Tenn. Cypress shingles, 499.  
 McKenzie, Tenn., from McKenzie, Natchez and Vicksburg, Miss. Cypress shingles, 499.  
 Maben, W. Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.  
 MacCammon, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).  
 Mack, Colo., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).  
 Mackay, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).  
 Macksburg, Iowa, from Chanute, Kans. Cement, 377.  
 Macon, Ga., from north Atlantic ports. Sugar, 739 (741).  
 Madison, Wis., from Augusta, Wis., reconsigned to Chicago, Ill. Hay, 691.  
 Maine to Mayfield and Graves county, Ky. Class rates, 45.  
 Malad, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).  
 Marcus Hook, Pa., to New York, N. Y., for export. Lubricating oil, 611.  
 Marion, Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.  
 Marshall, Tex., to Ivorydale, Ohio. Peanut oil, 701.  
 Marshalltown, Iowa, from Menasha, Wis., and Elgin, Ill. Woodenware, 708.  
 Maryland to Mayfield and Graves county, Ky. Class rates, 45.  
 Massachusetts to Mayfield and Graves county, Ky. Class rates, 45.  
 Massachusetts from Virginia and West Virginia. Lumber, 715.  
 Mayfield, Ky., from trunk-line territory. Class rates, 45.  
 Mayfield, Ky., to trunk-line territory. Tobacco, 45.  
 Memphis, Tenn., from Houston and Houston Heights, Tex. Press cloth; fourth section, 31 (37).  
 Memphis, Tenn., from Jackson and Aberdeen, Miss. Walnut logs, 496.  
 Menasha, Wis., to various destinations. Woodenware, 708.  
 Mercedes, Tex. Precooled vegetables, 510.  
 Meridian, Miss., from Houston and Houston Heights, Tex. Press cloth, 31 (33).  
 Metropolis, Ill., from Louisiana and Mississippi. Yellow-pine lumber, 443.  
 Mexico from Texas and Louisiana, reconsigned at Eagle Pass, Tex. Lumber, 693.

- Mexico to and from various points in the United States via Pacific coast ports. Commodity rates, 79.
- Michigan to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (90).
- Michigan to Western trunk line territory. Cement, 201 (206).
- Milan, Wash., to Colorado and Kansas. Pine and fir lumber, cedar poles and posts, 627.
- Mill Hall, Pa., to official classification territory. Milk, 425.
- Milliken, La., to Thebes, Ill. Lumber, 457.
- Milneberg, La., to Birmingham, Ala. Cattle, hogs, and sheep; fourth section, 596.
- Milwaukee, Wis., from Illinois. Sand and gravel, 1 (3).
- Milwaukee, Wis., from various points. Loss and damage claims of grain, 530.
- Mina, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Minneapolis, Minn., from California. Sugar; fourth section, 657.
- Minneapolis, Minn., from Little Rock, Ark. originally consigned to Cypress, Ill., stopped in transit and reshipped at Thebes, Ill. Oak lumber, 468.
- Minneapolis, Minn., from various points. Loss and damage claims of grain, 530.
- Minnesota to Helena, Ark. Potatoes, 307.
- Minnesota to official classification territory. Potatoes, 308.
- Minnesota to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, and Mexico. Commodity rates, 79 (90).
- Minnesota to western trunk-line territory. Cement, 201 (206).
- Minnesota Transfer, Minn., from California. Sugar; fourth section, 657.
- Mississippi from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Mississippi to Kittanning, Pa. Pine lumber, 433.
- Mississippi to Metropolis, Ill., and Paducah, Ky. Yellow-pine lumber, 443.
- Mississippi to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, and Mexico. Commodity rates, 79 (90).
- Mississippi River, points east of, from Houston and Houston Heights, Tex. Press cloth; fourth section, 31 (37).
- Mississippi Valley from Houston and Houston Heights, Tex. Press cloth, 31.
- Missoula, Mont., from California. Sugar, 657 (659).
- Missouri from Oklahoma. Petroleum and products, 737.
- Missouri to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (90).
- Missouri to western trunk line territory. Cement, 201 (206).
- Missouri River points to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products; out of line charges, 59.
- Mitchell, S. Dak., from points east of Indiana-Illinois state line and north of Potomac and Ohio rivers. Class rates, 40.
- Mitchell, S. Dak., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Mitchell, S. Dak., to New York, N. Y. Live poultry, 40.
- Mobile, Ala., from Blanket, Tex., stopped in transit at Sherman, Tex. Oats, 671.
- Mobile, Ala., from Missouri River points, milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products; out of line charges, 59.
- Monessen, Pa., from Lake Erie ports. Iron ore, 650.
- Montana from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587.
- Montana from Kansas. Cement, 402.

- Montana from Libby, Mont. Lumber, 5.
- Montana from Oregon. Lumber and other forest products, 481.
- Montana from San Francisco, Oakland, Crockett, and Potrero, Cal. Sugar, 657.
- Montgomery, Ala., to Jackson, Miss. Coarse grain products, 615.
- Morganfield, Ky., from Napanee, Ind., and Chicago, Ill. Silo material; fourth section, 13.
- Murphy, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Napanee, Ind., to La Grange, Arnold, Lancaster, Taylorsville, Elizabethtown, and Morganfield, Ky. Silo material, 13.
- Nashville, Tenn., to Ohio River crossings and St. Louis, Mo., and East St. Louis, Ill. Live stock, 277.
- Natchez, Miss., to McKenzie, Tenn. Cypress shingles; fourth section, 499.
- Naugatuck, W. Va., from Chicago, and East St. Louis, Ill. Fresh meats and packing-house products, 525.
- Nebraska from Fullerton, La. Yellow-pine lumber, 461.
- Nebraska to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (90).
- Nelson, Nev., to Smoot and Provo, Utah. Wool in the grease, 501.
- Nevada from Imperial Valley, Cal. Cottonseed cake and cottonseed meal, 587.
- Nevada to San Francisco, Cal. Live stock, 470.
- New England territory from Boardman, Lake Waccamaw, and Whiteville, N. C. Lumber, 475.
- New Hampshire to Mayfield and Graves county, Ky. Class rates, 45.
- New Kensington, Pa., from Winston-Salem, N. C., diverted at Potomac Yards, Va., to Jeannette, Pa. Cullet, 451.
- New Jersey to Mayfield and Graves county, Ky. Class rates, 45.
- New Jersey from Virginia and West Virginia. Lumber, 715.
- New Meadows, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- New Mexico to San Francisco, Cal. Live stock, 470.
- New Orleans, La., to Birmingham, Ala. Cattle, hogs, and sheep, 596.
- New Orleans, La., to Enid, Okla. Green coffee, 668.
- New Orleans, La., to Hattiesburg, Miss. Excelsior, 464.
- New Orleans, La., from Houston and Houston Heights, Tex. Press cloth; fourth section, 31 (37).
- New Orleans, La., from Missouri River points, milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- New Orleans, La., to Orange, Tex. Blackstrap molasses, 673.
- New Orleans, La., to southeastern points. Sugar, 739.
- New Orleans, La., to Tulsa, Okla. Coconuts, pineapples, and bananas, 731.
- New Plymouth, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- New York from Virginia and West Virginia. Lumber, 715.
- New York, N. Y. Lubricating oil; demurrage, 611.
- New York, N. Y., to Atlanta, Ga. Glucose paste, 413.
- New York, N. Y., from Harrison, Ark., reconsigned at Dupon, Ill. Oak staves, 449.
- New York, N. Y., from Mitchell, S. Dak. Live poultry, 40.
- New York, N. Y., to Norfolk, Va., destined to Pacific coast. Commodity rates, 79 (92).
- New York, N. Y., from Pacific coast ports, originating in Asia, Philippine Islands, Australia, New Zealand, Fiji Islands, Central and South America, Mexico, and Hawaiian Islands, via Galveston, Tex. Commodity rates, 79 (93).

- New York, N. Y., to Pacific coast points, via Galveston, Tex. Commodity rates, 79.
- New York, N. Y., to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (90).
- New York, N. Y., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- New York, N. Y., to various destinations. Bananas; door boards and slats, 634.
- New York, N. Y., from Virginia and West Virginia. Lumber, 715.
- New York, N. Y., from Xenia, Ohio. Wheat, 467.
- New Zealand to and from various points in the United States, via Pacific coast ports. Commodity rates, 79.
- Newark, N. J., to Kansas City, Mo. Varnish remover, 453.
- Newellton, La., to Thebes, Ill. Lumber, 457.
- Newpoint, Ind. Switching, 637.
- Norfolk, Va., from New York, N. Y., destined to Pacific coast. Commodity rates, 79 (92).
- Norfolk, Va., from Whiteville, Lake Waccamaw, and Boardman, N. C. Lumber, 475.
- North Atlantic ports to southeastern points. Sugar, 739.
- North Baton Rouge, La., to Kennedy, Ala. Petroleum refined oil and gasoline, 493.
- North Carolina from Chattanooga, Tenn. Sewer pipe, 642.
- North Carolina from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- North Carolina to Norfolk and Pinners Point, Va., and Trunk Line and New England territories. Lumber, 475.
- North Dakota from Waldo, British Columbia. Pine and fir lumber, 435.
- North Kansas City, Mo., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- North Philadelphia, Pa., from Andrews, N. C., diverted to Coopers Point, Camden, N. J. Hardwood lumber, 679.
- Oak Cliff, Tex., from Oklahoma City, Okla. Scrap paper, 266.
- Oakland, Cal., to Montana. Sugar, 657.
- Oasis, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Official classification territory. Kitchen cabinets and kitchen-cabinet tables, 518.
- Official classification territory. Press cloth; ratings, 31.
- Official classification territory. Wet rag pulp; rating, 515.
- Official classification territory from Mill Hall, Philadelphia, Concordville, and Troy, Pa., and Rising Sun, Md. Milk, 425.
- Official classification territory from Minnesota. Potatoes, 303.
- Ogden, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Ohio River, points north of, to Mitchell, S. Dak. Class rates, 40.
- Ohio River, points south of, from Houston and Houston Heights, Tex. Press cloth; fourth section, 31 (37).
- Ohio River crossings from Nashville, Tenn. Live stock, 277.
- Oklahoma. Class rates, 379.
- Oklahoma to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (90).
- Oklahoma to and from Shreveport, La., and Texas. Class rates, 379.
- Oklahoma to Texas. Cottonseed cake, meal, and hulls, 297.
- Oklahoma to Texas. Crushed limestone, scrap paper, and potatoes, 266.
- Oklahoma to various destinations. Petroleum and products, 737.
- Oklahoma City, Okla., to Dallas and Oak Cliff, Tex. Scrap paper, 266.
- Oklahoma City, Okla., to and from Texas. Class rates, 379 (381).

- Omaha, Nebr., from California. Sugar; fourth section, 657.
- Omaha, Nebr., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Omaha, Nebr., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and products; out of line charges, 59.
- Omaha, Nebr., from various points. Loss and damage claims of grain, 530.
- Onalaska, Tex., to Texas City and Galveston, Tex., for export and coastwise movement. Yellow-pine and hardwood lumber, 22.
- Orange, Tex., from New Orleans, La. Blackstrap molasses, 673.
- Oregon to Butte, Mont. Grain, grain products, hay, and straw, 623.
- Oregon to Idaho, Montana, and Utah. Lumber and forest products, 481.
- Oregon from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587.
- Oregon to San Francisco, Cal. Live stock, 470.
- Pacific coast ports to and from eastern defined territories, via Galveston, Tex. Commodity rates, 79.
- Paducah, Ky., from Louisiana and Mississippi. Yellow-pine lumber, 443.
- Paducah, Ky., from Nashville, Tenn. Live stock, 277.
- Park, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Park City, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Paterson, N. J., from Fort Jennings, Ohio, reconsigned at Glenside, Pa. Baled hay, 441.
- Pennsylvania to Mayfield and Graves County, Ky. Class rates, 45.
- Pennsylvania from Virginia and West Virginia. Lumber, 715.
- Peoria, Ill., from various points. Loss and damage claims of grain, 530.
- Peru, Ind., from Clio, Ark., stopped in transit at Thebes, Ill. Rough gum lumber, 436.
- Philadelphia, Pa. Blackstrap molasses, 77.
- Philadelphia, Pa., from Andrews, N. C., diverted to Coopers Point, Camden, N. J. Hardwood lumber, 679.
- Philadelphia, Pa., to official classification territory. Milk, 425.
- Philadelphia, Pa., to various destinations. Bananas; door boards and slats, 634.
- Philadelphia, Pa., from Virginia and West Virginia. Lumber, 715.
- Philippine Islands to and from various points in the United States, via Pacific coast ports. Commodity rates, 79.
- Pinners Point, Va., from Whiteville, Lake Waccamaw, and Boardman, N. C. Lumber, 475.
- Pittsburgh, Pa., to Huntington, W. Va. Old steel rails, 675.
- Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo. Structural iron and steel, 697.
- Pittsburgh, Pa., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Pixleys, Mo., to Kansas City, Kans. Crushed rock, 577.
- Pocatello, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Potomac River, points north of, to Mitchell, S. Dak. Class rates, 40.
- Potomac Yard, Va., from Winston-Salem, N. C., diverted to Jeannette, Pa. Cullet, 451.
- Potrero, Cal., to Montana. Sugar, 657.
- Prescott, Ariz., from Pittsburgh, Pa., fabricated at St. Louis, Mo. Structural iron and steel, 697.
- Prescott, Oreg., to Idaho, Montana, and Utah. Lumber and forest products, 481.
- Preston, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).

- Promontory, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Prospect Hill, Mo., to Oklahoma. Cement; fourth section, 201 (258).
- Providence, R. I., to St. Louis, Mo., destined to Fort Worth and Dallas, Tex. Oysters and other shellfish, 438.
- Provo, Utah, from Nelson, now Ellison, and Winnemucca, Nev. Wool in the grease, 501.
- Provo, Utah, to eastern destinations. Peaches, 429.
- Rainbow, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Rainier, Oreg., to Idaho, Montana, and Utah. Lumber and forest products, 481.
- Ravalli, Mont., from California. Sugar, 657 (659).
- Rawlins, Wyo., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Reading, Pa., from Virginia and West Virginia. Lumber, 715.
- Reno, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Rhode Island to Mayfield and Graves County, Ky. Class rates, 45.
- Rhode Island from Virginia and West Virginia. Lumber, 715.
- Rift, W. Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Rising Sun, Md., to official classification territory. Milk, 425.
- Rittman, Ohio, to Iron River, Mich. Salt, 423.
- Roberts, Idaho, to Butte, Mont. Flour and mill stuffs, 623.
- Rochester, N. Y., from Virginia and West Virginia. Lumber, 715.
- St. Joseph, La., to Thebes, Ill. Lumber, 457.
- St. Joseph, Mo., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products; out of line charges, 59.
- St. Joseph, Mo., from Sugar Land, Tex. Mattresses, 447.
- St. Louis, Mo., from various points. Loss and damage claims of grain, 530.
- St. Louis, Mo., to Drumright, Okla. Artificial stone, 689.
- St. Louis, Mo., to Fort Worth and Dallas, Tex., originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y. Oysters and other shellfish, 438.
- St. Louis, Mo., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- St. Louis, Mo., from Nashville, Tenn. Live stock, 277.
- St. Louis, Mo., from Pittsburgh, Pa., destined to Prescott, Ariz. Structural iron and steel, 697.
- St. Paul, Minn., from California. Sugar; fourth section, 657.
- St. Paul, Minn., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Salina, Kans., from Missouri River points, destined to New Orleans, La., and Mobile, Ala. Grain and grain products; out of line charges, 59.
- Sallisaw, Okla., from Kansas. Cement, 201 (254).
- Salmon, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Salt Lake City, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- San Antonio, Tex., to and from Oklahoma. Class rates, 379 (382).
- San Benito, Tex. Precooled vegetables, 510.
- San Francisco, Cal., to Montana. Sugar, 657.
- San Francisco, Cal., from Nevada, Utah, Oregon, New Mexico, and California. Live stock, 470.
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- Sand Point, Idaho, to Colorado and Kansas. Pine and fir lumber, cedar poles and posts, 627.
- Sequoyah, Tex., to Texas City and Galveston, Tex., for export and coastwise movement. Yellow-pine and hardwood lumber, 22.
- Shafter, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (592).
- Shamrock, Tex., from Oklahoma. Potatoes, 266.
- Shawnee, Okla., to Texas. Potatoes, 266.
- Shawnee district, Okla., to Texas. Potatoes, 266.
- Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans. Corn, 507.
- Shelley, Idaho, to Butte, Mont. Flour and mill stuffs, 623.
- Sherman, Tex., from Blanket, Tex., destined to Mobile, Ala. Oats, 671.
- Shreveport, La., to and from Oklahoma. Class rates, 379.
- Shreveport, La., to and from Texas. Cattle, lignite, wood, and tanbark, 283.
- Shreveport, La., to and from Texas. Class and commodity rates, 312.
- Sicard, La., to Boston, Mass. Cotton, 490.
- Sioux City, Iowa, from Elgin, Ill., and Menasha, Wis. Woodenware, 708.
- Sioux Falls, S. Dak., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Smoot, Utah, from Nelson, now Ellison, and Winnemucca, Nev. Wool in the grease, 501.
- Socorro, N. Mex., to El Paso, Tex. Secondhand empty beer bottles, 479.
- Soldier Summit, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Somers, Mont., to Montana. Lumber, 5.
- Sondheimer, La., to Thebes, Ill. Lumber, 457.
- South America to and from various points in the United States via Pacific coast ports. Commodity rates, 79.
- South Amherst, Ohio, to and from Lake Shore Junction, Ohio. Through rates, 69.
- South Atlantic ports to southeastern points. Sugar, 739.
- South Carolina from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- South Dakota from Kansas. Cement, 402.
- South Norwalk, Conn., to St. Louis, Mo., destined to Fort Worth and Dallas, Tex. Oysters and other shellfish, 438.
- South Omaha, Nebr., to New Orleans, La., and Mobile, Ala., milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans. Grain and grain products; out of line charges, 59.
- South Omaha, Nebr., from Tabor, Iowa. Live stock, 733.
- Southeastern Carolina territories from Chicago, Ill., milled in transit at Knoxville, Tenn. Wheat, 647.
- Southeastern points from Houston and Houston Heights, Tex. Press cloth, 31.
- Southeastern points from New Orleans, La., and north and south Atlantic ports. Sugar, 739.
- Southern classification territory. Press cloth, ratings, 31.
- Southern classification territory from Glastonbury and East Hartford, Conn. Soap, 269.
- Spaulding, Ill., to Wisconsin. Sand and gravel, 1.
- Spokane, Wash., from Culver, Idaho, destined to Twin Falls, Idaho. Cedar poles, 418.
- Spring Grove, Ill., to Wisconsin. Sand and gravel, 1.
- Springdale, Wash., to Colorado and Kansas. Pine and fir lumber, cedar poles and posts, 627.
- Springfield, Mass., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Springville, Utah, to eastern destinations. Peaches, 429.

- Stoneham, Mass., to Keene, N. H. Fleshings, 19.
- Strader, Wis., to Madison, Wis., reconsigned to Chicago, Ill. Hay, 691.
- Stratton, Colo., from Washington and Idaho. Pine and fir lumber, cedar poles and posts, 627.
- Sturgeon Bay, Wis., from Aladdin, Iowa, destined to Fish Creek, Wis. Manure spreader, 455.
- Sugar Creek, Mo., to Oklahoma. Cement; fourth section, 201 (258).
- Sugar Land, Tex., to Chicago, Ill., and St. Joseph, Mo. Mattresses, 447.
- Sulphur Springs, Tex., to Shamrock, Groom, and Amarillo, Tex. Potatoes, 266 (267)
- Susanville, Cal., from Imperial Valley of California, via an interstate route. Cottonseed cake and cottonseed meal, 587 (592).
- Tabor, Iowa, to South Omaha, Nebr. Live stock, 733.
- Taylorsville, Ky., from Napanee, Ind. Silo material, 13.
- Tecoma, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Tennessee from Houston and Houston Heights, Tex. Press cloth, 31 (33).
- Tennessee to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Texas to Eagle Pass, Tex., reconsigned to Mexico. Lumber, 693.
- Texas to Galveston and Texas City, Tex., for export and coastwise movement. Yellow pine and hardwood lumber, 22.
- Texas to Ivorydale, Ohio. Peanut oil, 701.
- Texas to Las Cruces, N. Mex. Lumber, 62, 65.
- Texas from Oklahoma. Cottonseed cake, meal and hulls, 297.
- Texas from Oklahoma. Crushed limestone, scrap paper, and potatoes, 266.
- Texas to and from Oklahoma and Kansas. Class rates, 379.
- Texas to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Texas to and from Shreveport, La. Cattle, lignite, wood, and tan bark, 283.
- Texas to and from Shreveport, La. Class and commodity rates, 312.
- Texas City, Tex., from Onalaska, Westville, Sequoyah, and Carmona, Tex., for export and coastwise movement. Yellow pine and hardwood lumber, 22.
- Texas-Oklahoma state line from Shawnee district, Okla. Potatoes, 266.
- Thebes, Ill., from Canalou, Mo., destined to official classification territory. Forest products, 75.
- Thebes, Ill., from Clio, Ark., reconsigned to Peru, Ind. Rough gum lumber, 436.
- Thebes, Ill., from Junks Spur, Waterproof, St. Joseph, Newellton, Sondheimer, Lake Providence, and Milliken, La. Lumber, 457.
- Thebes, Ill., from Little Rock, Ark., stopped in transit and reshipped to Minneapolis, Minn. Oak lumber, 468.
- Toledo, Ohio, from Adrian, Mich. Screen doors and window screens, 405.
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- Trunk line territory from Boardman, Lake Waccamaw, and Whiteville, N. C. Lumber, 475.
- Trunk line territory from Mayfield, Ky. Tobacco, 45.
- Trunk line territory to Mayfield and Graves county, Ky. Class rates, 45.
- Tulsa, Okla., from Lyons and Kanopolis, Kans. Rock salt, 684.
- Tulsa, Okla., from New Orleans, La. Coconuts, pineapples, and bananas, 731.
- Twin Falls, Idaho, from Culver, Idaho, via Spokane, Wash. Cedar poles, 418.
- Twin Falls, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).

- Union City, Ind. Switching, 728.
- Utah from Astoria, Wauna, Westport, Rainier, and Prescott, Oreg. Lumber and forest products, 481.
- Utah to Butte, Mont. Grain, grain products, hay, and straw, 623-
- Utah to eastern destinations. Peaches, 429.
- Utah from Imperial Valley, Cal. Cottonseed cake and cottonseed meal, 587.
- Utah from Oregon. Lumber and other forest products, 481.
- Utah, to San Francisco, Cal. Live stock, 470.
- Vale, Oreg., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (594).
- Vermont to Mayfield and Graves county, Ky. Class rates, 45.
- Vicksburg, Miss., from Houston and Houston Heights, Tex. Press cloth; fourth section, 31 (37).
- Vicksburg, Miss., to McKenzie, Tenn. Cypress shingles; fourth section, 499.
- Victor, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Virginia from Huntington, W. Va. Iron and steel rails, and iron and steel crossties, 600.
- Virginia to Mayfield and Graves county, Ky. Class rates, 45.
- Virginia to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Wabuska, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Waco, Tex., to and from Oklahoma. Class rates, 379 (381).
- Waiteville, W. Va., to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Waldo, British Columbia to North Dakota. Pine and fir lumber, 435.
- Warren, Ark., to Boston, Mass. Cotton, 490,
- Washington to Kansas and Colorado. Pine and fir lumber, cedar poles and posts, 627.
- Waterproof, La., to Thebes, Ill. Lumber, 457.
- Watertown, S. Dak., from Menasha, Wis., and Elgin, Ill. Woodenware, 708.
- Watson, Utah, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Wauna, Oreg., to Idaho, Montana, and Utah. Lumber and forest products, 481.
- Waverly, N. Y., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Weiser, Idaho, from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Wendel, Cal., from Imperial Valley of California, via an interstate route. Cottonseed cake and cottonseed meal, 587 (592).
- West Tulsa, Okla., to Fairview and Wheaton, Mo. Sand, 485.
- West Virginia from Huntington, W. Va. Iron and steel rails, and iron and steel crossties, 600.
- West Virginia to Mayfield and Graves county, Ky. Class rates, 45.
- West Virginia to Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Baltimore, Md. Lumber, 715.
- Western classification territory. Press cloth, ratings, 31.
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- Western trunk line territory. Woodenware, ratings, 708.
- Western trunk line territory to and from adjacent territories. Cement, 201.
- Western trunk line territory from Houston and Houston Heights, Tex. Press cloth, 31.
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- Westport, Ind. Switching, 637.

- Westport, Oreg., to Idaho, Montana, and Utah. Lumber and forest products, 481.
- Westville, Tex., to Texas City and Galveston, Tex., for export and coastwise movement. Yellow pine and hardwood lumber, 22.
- Westwood, Cal., from Imperial Valley of California, via an interstate route. Cottonseed cake and cottonseed meal, 587 (592).
- Wharton, Tex., to Ivorydale, Ohio. Peanut oil, 701.
- Wharton, Tex., to Shamrock, Groom, and Amarillo, Tex. Potatoes, 266 (267).
- Wheaton, Mo., from West Tulsa, Okla. Sand, 485.
- Whiteville, N. C., to Norfolk and Pinners Point, Va. Lumber, 475.
- Whiting, Ind., from Bayview, Idaho. Cedar poles, 415.
- Wichita Falls, Tex., to and from Oklahoma. Class rates, 379 (381).
- Wiggins, Miss. Switching and weighing charges on lumber, 705.
- Wilkes-Barre, Pa., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Williamsport, Pa., from Virginia and West Virginia. Lumber, 715.
- Winnemucca, Nev., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (591).
- Winnemucca, Nev., to Smoot and Provo, Utah. Wool in the grease, 501.
- Winston-Salem, N. C., to New Kensington, Pa., diverted at Potomac Yards, Va., to Jeannette, Pa. Cullet, 451.
- Wisconsin from Carpentersville, Algonquin, Cary, Crystal Lake, Elgin, Spring Grove, Spaulding, Fox Lake, and Libertyville, Ill. Sand and gravel, 1.
- Wisconsin to Helena, Ark. Potatoes, 307.
- Wisconsin from Illinois. Sand and gravel, 1.
- Wisconsin to Pacific coast ports, destined to Japan, China, Philippine Islands, Central and South America, Mexico, Australia, and New Zealand. Commodity rates, 79 (91).
- Wood River, Ill., to Kennedy, Ala. Petroleum, refined oil, and gasoline, 493.
- Woodbine, Kans., from Missouri River points, destined to New Orleans, La., and Mobile, Ala. Grain and grain products; out of line charges, 59.
- Worcester, Mass., from Springville, Caryhurst, and Provo, Utah. Peaches, 429.
- Wyoming to Butte, Mont. Grain, grain products, hay, and straw, 623.
- Wyoming to Helena, Ark. Potatoes, 307.
- Wyoming from Imperial Valley, Cal. Cottonseed cake and cottonseed meal, 587.
- Wyoming from Kansas. Cement, 402.
- Xenia, Ohio, to New York, N. Y. Wheat, 467.
- Yellowstone, Mont., from Imperial Valley of California. Cottonseed cake and cottonseed meal, 587 (593).
- Youngstown, Ohio, to Clarkdale, Ariz. Mine cars, 663.
- Zion, Iowa, from Chanute, Kans. Cement, 377.



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[The number in parentheses following citation indicates where paragraph occurs or subject is considered.]

**ADJACENT FOREIGN COUNTRY.** *See* CANADA; MEXICO.

### **ADJUSTMENT OF RATES.**

Proposed increased rates on live stock and proposed cancellation of rates on hogs in double-deck cars, from Nashville, Tenn., to Ohio River Crossings, not justified. Readjustment suggested. Live Stock from Nashville, Tenn., 277 (280).

A rate adjustment that hinders or prevents interstate shipments can not be said to effect no undue prejudice merely because the shipments under that adjustment have been comparatively few. Shreveport-Texas Cattle, Lignite, Wood, and Tanbark, 283 (289).

Present rates on cottonseed cake and meal from points in the Imperial Valley, Cal., to points in Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, found unreasonable in certain instances. Reasonable rates prescribed. National Wool Growers' Asso. v. B. G. R. R. Co. 587 (591-595).

Rates on coconuts and pineapples from New Orleans, La., to Oklahoma City, Okla., should be adjusted in a like manner as is herein prescribed for rates to Tulsa. Tulsa Traffic Association v. A., T. & S. F. Ry. Co. 731 (732).

General readjustment of commodity rates on sugar from New Orleans, La., and from the north and the south Atlantic ports to points in the southeast found justified. The Southeastern Sugar Cases, 739 (754).

### **ADMINISTRATIVE BODY.**

As an administrative body, the Commission has held that it may consider the merits of a controversy submitted to it without first determining the question of its jurisdiction, but affirmative relief may only be granted when jurisdiction over the subject matter is definitely ascertained. Lunham & Moore v. C. R. R. Co. of N. J., 611 (612).

### **ADMINISTRATIVE RULING.**

Conference Ruling No. 489, cited. Lexington Flouring Mills v. M. P. Ry. Co. 687 (688).

Rule 5 (b), Tariff Circular 18-A, cited. Standard Oil Co. (Ky.) v. Y. & M. V. R. R. Co. 493 (494).

Rule 77, Tariff Circular 18-A, cited. Purity Ice Cream Co. v. A., T. & S. F. Ry. Co. 684 (686).

### **ADVANCE IN RATES.**

In General:

Authority to file increased carload and less-than-carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto granted carload rates and denied less-than-carload rates. Trans-continental Commodity Rates. 79 (94).

Authority to file increased export and import commodity rates between eastern defined territories and Pacific Coast ports applicable on traffic from points in Japan, Australia, New Zealand, Fiji Islands, the Philippine Islands, and Asiatic countries, granted, *Id.* (94).

**ADVANCE IN RATES—Continued.****In General—Continued.**

Authority sought by the S. P. Co., via water-and-rail routes through Galveston to file increased rates from its New York piers on items as to which it concurs in higher rates via all-rail routes to Pacific coast points denied. *Id.* (94).

Authority sought by rail-and-water lines through Galveston to increase rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports in California to the Atlantic seaboard to the level of the all-rail rates on the same commodities granted. *Id.* (95).

Section 15 construed as to the suspension of classifications and schedules and the filing of increased rates for approval. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (337).

**Cement:** Proposed increased rate on cement from Kansas producing points to Oklahoma destinations found not justified. *Western Cement Rates*, 201 (255).

**Cement:** Proposed increased rates from Ada, Okla., to points in southwestern Missouri and southeastern Kansas found not justified. *Id.* (256).

**Cement:** Proposed increased rates on cement, c. l., from Kansas points to points on the C., B. & Q. R. R. in South Dakota, Wyoming, and Montana found not justified. Distance rates not in excess of scales 3 and 4 prescribed in 48 I. C. C., 201, authorized. *Cement to Montana*, 402 (404).

**Class rates:** Proposed increased class rates between points in Oklahoma and Texas, between Oklahoma and Shreveport, La., between Kansas and the panhandle of Texas, and between points in Oklahoma, not justified. Scale of rates prescribed. *Southwestern Class Case*, 379 (395).

**Cottonseed products:** Proposed increased commodity rates on cottonseed products from points on the C., R. I. & P. Ry., in Oklahoma to points in the Texas panhandle found not justified. Suggested that commodity rates be established on basis of scale prescribed in 41 I. C. C., 83. *Cottonseed Products to Texas*, 297 (302).

**Flour and mill stuffs:** Increased rates on flour and mill stuffs from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts, Idaho, to Butte, Mont., found justified. *Beebe Grain Co. v. B., A. & P. Ry. Co.* 623 (626).

**Grain and products:** Proposed cancellation of waiver of out-of-line haul charges on grain and products from Missouri River points to New Orleans and Mobile; and the effected cancellation of waiver of similar charges on like traffic moving under proportional rates to Gulf ports for export, found justified. *Grain Transit at Kansas Stations*, 59 (61).

**Grain products, coarse:** Proposed cancellation of commodity rate on, from Montgomery, Ala., to Jackson, Miss., leaving in effect higher class rate, found justified. *Montgomery, Ala.,—Jackson, Miss., Grain Products*, 615 (617).

**Grain screenings:** No justification having been offered in support of proposed increases on, between points in western trunk line territory, tariffs ordered canceled. *Grain Screenings Rating*, 576.

**Kitchen cabinets:** Ratings applied by defendants in official classification territory on kitchen cabinets and kitchen-cabinet tables, l. c. l., increased since January 1, 1910, found justified, and those not so increased not shown unreasonable. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (523, 524).

**Limestone:** Proposed increased rates on, from Ada, Okla., to points in Texas, found not justified. *Oklahoma-Texas Commodities*, 266 (268).

**Live stock:** Proposed increased rates on live stock and proposed cancellation of rates on hogs in double-deck cars, from Nashville, Tenn., to Ohio River crossings not justified. Readjustment suggested. *Live Stock from Nashville, Tenn.*, 277 (280).

**ADVANCE IN RATES—Continued.**

Lumber, yellow pine: In 34 I. C. C., 388, rate of 34 cents per 100 pounds, on yellow pine lumber and articles taking same rates, from Texas and Louisiana points to Las Cruces, N. Mex., found unreasonable and reasonable rate prescribed. Upon rehearing 34 cent rate found reasonable. *Bascom-French Co. v. A., T. & S. F. Ry. Co.* 62 (64).

Lumber, yellow pine and hardwood: Increased rates on, from Onalaska, Westville, and other points on the Trinity division of the M., K. & T. Ry. Co. of Tex., to Texas City and Galveston, Tex., for export or coastwise movement, found justified. *West Lumber Co. v. M.; K. & T. Ry. Co., of Texas* 22 (25).

Lumber: Class M rate charged on hardwood lumber from Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., not found unreasonable compared with Class P rate formerly in effect. *Belzoni Hardwood Lumber Co. v. S. Ry. Co. in Miss.* 665.

Paper, roofing, etc.: Proposed cancellation of commodity rate on, from California terminals to points in eastern territory, groups A to H, inclusive, found justified. *Eastbound Transcontinental Roofing Paper*, 17 (18).

Paper, scrap: Proposed increased rates on, from Oklahoma City, Okla., to Dallas and Oak Cliff, Tex., allowed. *Oklahoma-Texas Commodities*, 266 (268).

Potatoes: Proposed increased rates on from points in the Shawnee district in Oklahoma to points on the C., R. I. & P. Ry. in Texas, found not justified. *Oklahoma-Texas Commodities*, 266 (268).

Rock, crushed: Proposed increased charges on, from Pixleys, Mo., to points in the switching district of Kansas City, Kans., resulting from proposed increased switching charge from Sheffield, Mo., to Kansas City, Kans., found justified. *Crushed Rock from Pixleys, Mo.*, 577 (581).

Screens, door and window: First-class rate on l. c. l. shipments of, from Adrian, Mich., to Toledo, Ohio, permitted to be increased more than 5 per cent in order to line up rates between points in Indiana, Ohio, and Michigan, found justified. In view of further increases in the first-class rate allowed in 45 I. C. C., 254, and 45 I. C. C., 303, no further finding made. *Prentice & Co. v. N. Y. C. R. R. Co.*, 405 (406).

Wet-rag pulp: Increased rating on from sixth to fifth class in official classification found justified. *Srere Bros. & Co. v. C., C. & St. L. Ry. Co.*, 515

**AGGREGATE OF INTERMEDIATES. See THROUGH AND LOCAL.****ALLOWANCES. See also INDUSTRIAL RAILWAY.**

Refusal of the New York Central to make an allowance to the Lorain & Southern of more than \$2.07 per car on and after May 1, 1916, not shown to have been or to be unduly prejudicial to complainants. *Ohio Cut Stone Co. v. N. Y. C. R. R. Co.*, 69 (74).

Refusal to make an allowance for the switching of inbound and outbound cars to and from convenient points on switch tracks serving quarries of complainant while performing a similar service for complainant's competitors without an additional charge found to result in undue prejudice. Reparation awarded. *Westport Stone Co. v. C., C. & St. L. Ry. Co.*, 637 (641).

Upon complaint of defendant's refusal to make allowance for switching and weighing service performed by complainant on traffic from its plant to point of interchange with defendant's line at Wiggins, Miss., is unreasonable and in violation of section 15: *Held*, Refusal to reimburse, not found unreasonable, and that in the absence of unjust discrimination defendant was under no obligation to perform the service. *Finkbine Lumber Co. v. G. & S. I. R. R. Co.*, 705 (707).

**ANALOGOUS ARTICLES. See also COMPARATIVE RATES.**

Appendix showing numerous commodities on which rates and minima hereinbefore prescribed on certain specific commodities will apply. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (372).

## ANALOGOUS ARTICLES—Continued.

Fiber pails should take the same rating as wooden pails to which they are analogous from a transportation standpoint and with which they are to some extent competitive. *Wooden Package Rating*, 708 (712).

Butter tubs are more nearly analogous to cooperage than to wooden or fiber pails, tubs, or other articles commonly known as woodenware. *Id.* (714).

Kitchen cabinets: Rates on, compared with rates on sectional bookcases and numerous articles of furniture. *Showers Bros. Co. v. A. A. R. R. Co.*, 518 (523).

## APPENDIX.

No. 1. Consolidated statement of expenditures for road and equipment by predecessor companies of the Wabash Pittsburgh Terminal Ry. Co. and the Pittsburgh & Carnegie R. R. Co. to May 10, 1904. *Wabash Pittsburgh Terminal Investigation*, 96 (154).

No. 2. Statement of expenditures for road and equipment, as of dates designated. *Wabash Pittsburgh Terminal Ry. Co.* *Id.* (156).

No. 3. Comparative income and profit and loss statements, *Wabash Pittsburgh Terminal Ry. Co.*, corporate account. *Id.* (158).

No. 4. Comparative balance sheet statement. *Wabash Pittsburgh Terminal Ry. Co.*, corporate account. *Id.* (160).

No. 5. Comparative income and profit and loss statement, *Wabash Pittsburgh Terminal Ry. Co.*, receiver's account. *Id.* (162).

No. 6. Comparative balance sheet statement. *Wabash Pittsburgh Terminal Ry. Co.*, receiver's account. *Id.* (164).

No. 7. Statement of first-mortgage bonds of the *Wabash Pittsburgh Terminal Ry. Co.*, sold subsequent to May 10, 1904. *Id.* (166).

No. 8. Statement of notes receivable and payable of the *Wabash Pittsburgh Terminal Ry. Co.* *Id.* (167).

No. 9. Comparative balance-sheet statement, *Wheeling & Lake Erie R. R. Co.*, corporate account. *Id.* (169).

No. 10. Comparative income and profit-and-loss statements, *Wheeling & Lake Erie R. R. Co.*, corporate account. *Id.* (171).

No. 11. Comparative balance-sheet statement, *Wheeling & Lake Erie R. R. Co.*, receiver's account. *Id.* (172).

No. 12. Comparative income and profit-and-loss statements, *Wheeling & Lake Erie R. R. Co.*, receiver's account. *Id.* (174).

No. 13. Comparative income and profit-and-loss statement, *Pittsburgh Terminal R. R. & Coal Co.* *Id.* (175).

No. 14. Comparative balance sheet, *Pittsburgh R. R. & Coal Co.*, since cancellation of lease of properties to *Pittsburgh Coal Co.* *Id.* (176).

No. 15. Comparative balance-sheet statement, *West Side Belt R. R. Co.*, corporate account. *Id.* (178).

No. 16. Comparative income and profit-and-loss statements, *West Side Belt R. R. Co.*, corporate account. *Id.* (180).

No. 17. Comparative balance-sheet statement, *West Side Belt R. R. Co.*, receiver's account. *Id.* (182).

No. 18. Comparative income and profit-and-loss statements, *West Side Belt R. R. Co.*, receiver's account. *Id.* (184).

No. 19. Circular issued by *Vermilye & Co.*, in regard to first mortgage four per cent fifty-year gold bonds, of the *Wabash Pittsburgh Terminal Ry. Co.* *Id.* (186).

No. 20. Copy of *Mercantile-Equitable Exhibit LL*, filed in foreclosure proceeding of *Wheeling & Lake Erie R. R. Co.*, showing copy of circular issued by *Wm. A. Read & Co.* in offering for sale the first mortgage bonds of the *Wabash Pittsburgh Terminal Ry. Co.* *Id.* (188).

APPENDIX—Continued.

No. 21. Copy of Mercantile-Equitable Exhibit II, filed in foreclosure proceeding of W. & L. E. R. R. Co., showing copy of application of the Wabash Pittsburgh Terminal Ry. Co., to list its bonds on the New York Stock Exchange. Id. (191).

No. 22. Resolution requesting investigation into affairs of the Wabash Pittsburgh Terminal Ry. Co. Id. (199).

Table 1. C., B. & Q. R. R. Effect of rates in Lorenz scales and Universal group plan on business originated by each carrier. Western Cement Rates, 201 (260).

Table 2. C., M. & St. P. Ry. Co. Recapitulation showing destination, miles hauled, weight, present and proposed rates and revenues on c. l. shipment of cement, with amount of increase involved, for the month of September, 1915. Id. (261).

Table 3. Minneapolis & St. Louis R. R. Statement of revenue for September, 1915, on cement from Mason City, Iowa. Revenue earned compared with revenue based on Lorenz scale and U. P. C. group scale for short workable routes and short routes all lines used as one. Id. (262).

Table 4. Minneapolis & St. L. R. R. Statement of cement, carloads, from Mason City, Iowa, to points in Iowa, month of September, 1915. Id. (262).

Table 5. Union Pacific. Statement showing weight and charges on cement forwarded from Bonner Springs, Kans., during the month of September, 1915, also result of Lorenz, Universal Portland Cement, Iola, Atlas, and Lehigh distance scales. Id. (263).

Table 6. Cement traffic originating on C. & N. W. Ry., September, 1915. Id. (264).

Table 7. Northern Pacific. Statement showing weight and charges on cement forwarded from Duluth and Steelton, Minn., via Northern Pacific Ry., during month of June, 1916, also result of the application to same traffic of Lorenz scale, Universal Portland Cement Co., Lehigh, and Atlas distance scales. Id. (265).

Showing numerous commodities on which rates and minima hereinbefore prescribed on certain specific commodities will apply. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (372).

Table 1. Distance class rates for the first five classes applying between Texas points prior to 1895, 1895 to 1902, 1902 to 1916, and the former Shreveport scale. Southwestern Class Case, 379 (398).

Table 2. Class rates for the first five classes applying between Oklahoma points upon traffic within that state from 1903. Id. (398).

Table 3. Standard distance scale and jobbers' scale from certain points for traffic within Kansas. Id. (399).

Table 4. Rates from Kansas City to six points in Oklahoma, and the rates for the same distance under seven scales offered for comparison. Id. (399).

Table 5. Statement showing the amounts that the proposed distance class scale between Oklahoma and Texas exceeds the former "Shreveport" scale. Id. (400).

Table 6. Statement showing specific class rates from Dallas, Tex., to points in panhandle of Texas on Rock Island compared with rates in suspended Oklahoma-Texas scale for same hauls. Id. (401).

Statement of present and former rates on sugar, c. l. and l. c. l. from New Orleans to Atlanta, Ga., and intermediate points via the short line. The Southeastern Sugar Cases, 739 (756).

**APPLICATION.**

Fifteenth Section: Authority to file increased carload and less-than-carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto granted carload rates and denied less-than-carload rates. *Transcontinental Commodity Rates*, 79 (94).

**BASIS OF RATES.** *See also* **FIXING RATES.**

Transportation and commercial competition governs the rates and differentials established on a zone basis from northern Illinois and Wisconsin points to Chicago, which are not shown to exist on traffic from northern Illinois points to Wisconsin points. *American Sand and Gravel Co. v. C. & N. W. Ry. Co.* 1 (2, 4).

In making rates between territories of different rate levels the rate for the entire distance should be calculated under each scale and an average taken. *Western Cement Rates*, 201 (238).

The reasons given by respondents for the departure from the uniform basis of rates prescribed by Commission in 41 I. C. C., 83, in their schedules naming proposed increased rates on cotton-seed products from points in Oklahoma to points in the Texas Panhandle, are not persuasive. *Cotton-seed Products to Texas*, 297 (301).

Rate structure used in this country outlined. *R. R. Comm. of La. v. A. H. T. Ry. Co.*, 312 (369).

**BILLS OF LADING.**

Carrier furnished a 100,000-pound capacity car for shipment of wheat to New York for export, in lieu of 80,000-pound car ordered. Bill of lading contained no notation that wheat was for export and domestic rate based on minimum of 60,000 pounds was assessed. Complaint dismissed. *Dewey Bros. Co. v. P., C., C. & St. L. Ry. Co.*, 467.

**"BLACK PATCH" TERRITORY.**

"Black patch," a producing territory of "dark fired" tobacco, in Kentucky and Tennessee, described. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.*, 45 (52).

**BONDS.**

Purchase and sale of. *Wabash Pittsburgh Terminal Investigation*, 96 (121, 123). Statement of first-mortgage bonds of the *Wabash Pittsburgh Terminal Ry. Co.*, sold subsequent to May 10, 1904, and circular issued by *Vermilye & Co.*, in regard thereto. *Id.* (166, 186).

Copies of *Mercantile-Equitable Exhibits II and LL*, filed in foreclosure proceedings of *W. & L. E. R. R. Co.*, showing application to list, and circular for sale, of *Terminal Co.'s* bonds. *Id.* (188, 191).

**BOTH DIRECTIONS.**

Rate factor from Mayfield, Ky., to Paducah, Ky., of the through rate on unmanufactured tobacco, in hogsheads, to points in trunk-line territory, which exceeds by more than 2 per cent the rate factor from Paducah to Mayfield, not found unreasonable or unduly prejudicial. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.*, 45 (46, 58).

Distance scale of rates prescribed herein to be applicable between the same points in either direction. *Western Cement Rates*, 201 (238).

**"BREAK THE BEAM."**

Weight required to "break the beam" on hopper scales and track scales. *Claims for Loss and Damage of Grain*, 530 (540).

**BRIDGE BUSINESS.**

Traffic which travels entirely across the state without stopping therein referred to as bridge business. *Western Cement Rates*, 201 (223).

**CANADA.**

Complaint alleges that rates on lumber from Waldo, British Columbia, to points in North Dakota are unduly prejudicial to the extent they exceed rates from Gateway, Mont., an intermediate point. Complaint dismissed. Commission's authority in connection with transportation to and from an adjacent foreign country is over that portion within the confines of the United States. *Good v. G. N. Ry. Co.*, 435.

**CANCELLATION.**

Contention by defendants that cancellation of Group 5 joint rates applicable on lumber from Fullerton, La., to Kansas and Nebraska points, was effected in supplemental tariff effective Jan. 31, 1915, not sustained. Refund of the difference between the illegal combination assessed and joint rates legally applicable authorized. *Gulf Lumber Co. v. G. & S. R. R. Co.*, 461 (462).

**CAPITALIZATION.**

Total capitalization of the Terminal immediately prior to the reorganization. Wabash Pittsburgh Terminal Investigation, 96 (142).

**CAR DETENTION.**

Demurrage charges assessed at Long Island City on shipments of hay consigned to Bushwick Station, Long Island, but held at Long Island City, a point short of billed destination, on account of the declaration of an embargo while the shipments were in transit, found to have been assessed without tariff authority. Reparation awarded. *Schaeffer & Son v. L. I. R. R. Co.*, 25 (30).

**CAR FITTING.**

Where carriers furnish adequate grain doors, lumber, or other cooperage material, which they do not always do, and specifications for the use thereof, they should not be expected to pay for losses occasioned by the shipper's negligence. *Claims for Loss and Damage of Grain*, 530 (546).

Failure of defendants to install door boards or slats for the protection of certain imported shipments of bananas from New York, N. Y., Greenville, N. J., Philadelphia, Pa., and Baltimore, Md., to various interstate destinations found to have been unlawful. Reparation awarded. *Fruit Dispatch Co. v. P. & R. Ry. Co.*, 634.

**CAR FURNISHING.**

Complainant requested a 80,000-pound capacity car, and carrier furnished a 100,000-pound capacity car, for shipment of wheat to New York for export. Bill of lading contained no notation that wheat was for export and domestic rate based on minimum of 60,000 pounds was assessed. Complaint dismissed. *Dewey Bros. Co. v. P., C., C. & St. L. Ry. Co.*, 467.

**CARLOAD AND LESS-THAN-CARLOAD.**

Authority to file increased carload and less-than-carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto granted carload rates and denied less-than-carload rates. *Transcontinental Commodity Rates*, 79 (94).

Commodities moving in l. c. l. quantities are usually high grade, and consequently the cost of the service rendered by the carrier, so far as liability is concerned, is above the average. *Southwestern Class Case*, 379 (389).

Cars required to haul the same number of tons of l. c. l. traffic than that necessary to haul carload traffic is materially greater. *Id.* (386, 388).

Contention that by placing the entire burden of increases on l. c. l. traffic defendants prefer the large retail dealers to the undue prejudice of the small dealers not supported by evidence. *Showers Bros. Co. v. A. A. R. R. Co.*, 518 (523).

Rating of sugar fifth class in carloads, and third class in less than carloads would more nearly approximate that which obtains in other sections of the country. *The Southeastern Sugar Cases*, 739 (747, 755).

**CARLOAD AND LESS-THAN-CARLOAD—Continued.**

A narrow spread between the carload and l. c. l. rates on sugar, however desirable from the standpoint of the New Orleans jobbers, tends to the waste of transportation facilities without adequate compensating advantages to the general public and is not to be encouraged. *Id.* (747.)

**CAR-MILE EARNINGS. See also EARNINGS, TON-MILE REVENUE.**

Live stock: Car-mile earnings on, from New Orleans, La., to Birmingham, Ala., shown. *Alabama Packing Co. v. A. G. S. R. R. Co.* 596 (598).

Potatoes: Car-mile earnings on, for distances ranging from 267 to 708 miles, shown. *Oklahoma-Texas Commodities*, 266 (267).

Woodenware: Comparison of car-mile earnings on woodenware from Elgin, Ill., and Menasha, Wis. *Wooden Package Rating*, 708 (709).

**CEMENT.**

Statistics relative to tonnage, etc., of cement. *See Appendix. Western Cement Case*, 201.

**CHARACTERISTICS OF COMMODITY.**

Calves: Are easier to load and unload, are less valuable, and are less subject to injury, unless overcrowded, than the grown animals. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (290).

Cement: Loads heavily, moves in considerable volume, is of low value, and requires no special service. *Western Cement Rates*, 201 (231).

Live stock: Transportation of live stock necessitates certain expenditures not encountered or not prevailing to the same extent in the handling of any other traffic. Items enumerated. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (287).

**CIRCUITOUS ROUTES. See also LONG AND SHORT HAUL.**

Rates on lumber from Junks Spur, Sondheimer, and other Louisiana points to Thebes, Ill., not found unreasonable as compared with rates over indirect route via Memphis. *Sondheimer Co. v. St. L., I. M. & S. Ry. Co.* 457 (460).

**CIRCUMSTANCES AND CONDITIONS.**

In view of the dissimilar circumstances and conditions, comparisons of the proposed increased proportional rates on live stock, from Nashville, Tenn., to Ohio River crossings, with earnings on dead freight and with rates to other points for similar distances, fall short of proving the reasonableness of the proposed rates. *Live Stock from Nashville, Tenn.*, 277 (278).

Traffic conditions for a line haul between Oklahoma and Texas are so substantially different from those prevalent in Texas, or between Shreveport and Texas, as to warrant a different basis of class rates. *Southwestern Class Case*, 379 (394).

Rates per ton per mile, which may be compensatory in one section of the country and under given conditions are not necessarily compensatory for transportation of similar commodities in other sections of the country by other carriers and under different conditions. *National Wool Growers' Asso. v. B. G. R. R. Co.* 587 (588).

Transportation of sewer pipe from Chattanooga, Tenn., to points in North Carolina and the intrastate transportation of the same commodity within North Carolina not shown to be performed under similar transportation conditions. *Chattanooga Sewer Pipe & Fire Brick Co. v. S. Ry. Co.* 642 (646).

**CLAIMS. See also LOSS AND DAMAGE.**

Investigations and settlement of claims for loss and damage. *Claims for Loss and Damage of Grain*, 530 (552).

Statement relating to compromise settlements made by the N. P. Ry. Co. of claims filed in connection with movement of 1915-16 crop. *Id.* (560).

**CLAIMS—Continued.**

The device of giving to a particular shipper an advantage through the payment of a fictitious or excessive claim for loss and damage of property in transit effects the same unlawful results and carries with it the same penalties as departures or concessions from the published rates. *Id.* (568).

Standard form for use in presentation of grain claims suggested. *Id.* (572).

**CLASS AND COMMODITY RATES.**

Third class rate on glucose paste from New York, N. Y., to Atlanta, Ga., found legally applicable and not shown unreasonable as compared with commodity rate on molasses. *Schlesinger v. C. of G. Ry. Co.* 413 (414).

Second class rates on mattresses from Sugar Land and Houston, Tex., to Chicago, Ill., and St. Joseph, Mo., not shown to have been unreasonable as compared with commodity rates from the Dallas-Fort Worth Group and subsequently established between points involved herein. *Sealy Mattress Co. v. S. L. Ry. Co.* 447 (448).

Fifth class rate and minimum weight of 30,000 pounds assessed and present commodity rate based on minimum of 20,000 pounds on secondhand empty beer bottles from Socorro, N. Mex., to El Paso, Tex., found unreasonable to the extent they exceeded rate of 16 cents minimum 20,000 pounds. Reparation awarded. *El Paso Iron & Metal Co. v. A., T. & S. F. Ry. Co.* 479 (480).

Proposed cancellation of commodity rate on coarse grain products from Montgomery, Ala., to Jackson, Miss., leaving in effect higher class rate, found justified. *Montgomery, Ala.-Jackson, Miss., Grain Products*, 615 (617).

Class rates on wooden rollers from Minnesota Transfer, Minn., to Gilman, Mont., originating at Baton Rouge, La., found unreasonable to the extent it exceeded proportional commodity rate subsequently established. Reparation awarded. *Boorman-Power Lumber & Implement Co. v. C., R. I. & P. Ry. Co.* 695 (696).

Joint through class rates applicable on machinery, assessed on shipment of scrap iron from Augusta, Ga., to Harrisburg, Pa., found illegal to the extent it exceeded commodity rate applicable on scrap iron. Reparation awarded. *Stein Junk Co. v. S. Ry. Co.* 703 (705).

Maintenance of certain interstate commodity rates on woodenware between some points lower than the class rate basis applicable between other points, of which instances are cited in the record, is a matter largely within the control of the respondents, and in establishing the class C basis they should not permit undue discrimination to be continued or to result therefrom. *Wooden Package Rating*, 708 (713).

The Commission can not accept defendants' view that class rates are the "normal" rates for practically all freight and that ordinarily a commodity rate lower than the class rate which would otherwise apply is "unreasonably low" or "subnormal." *The Southeastern Sugar Cases*, 739 (742).

**CLASS RATES.**

Joint through class rate from Trunk Line Territory to Mayfield, Ky., found unduly prejudicial to the extent the factor from Paducah, Ky., to Mayfield, Ky., exceeds the class scale prescribed herein. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.* 45 (57).

Order of July 7, 1916, should be modified, in so far as it prescribes maximum class rates, by substituting therefor the scale of class rates herein found reasonable, to be observed for the transportation of property between Shreveport and Texas interstate common-point territory. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (345).

Class rates between Shreveport and points in interstate differential territory in Texas may exceed the maximum rates prescribed by differentials herein prescribed, corresponding to the hauls in differential territory. *Id.* (346).

**CLASS RATES—Continued.**

Class rates are designated by numbers and letters, often bearing some definite percentage relationship to one another and generally either based upon distance or made between specific points with due regard for distance. Their applicability is determined by the governing classification. *Id.* (369).

Proposed increased class rates between points in Oklahoma and Texas, between Oklahoma and Shreveport, La., between Kansas and the panhandle of Texas, and between points in Oklahoma, not justified. Scale of rates prescribed. *Southwestern Class Case*, 379 (395).

Traffic conditions for a line haul between Oklahoma and Texas are so substantially different from those prevalent in Texas or between Shreveport and Texas as to warrant a different basis of rates. *Id.* (394).

Distance class rates for the first five classes applying between Texas points prior to 1895, 1895 to 1902, 1902 to 1916, and the former Shreveport scale. Appendix. *Id.* (398).

Class rates for the first five classes applying between Oklahoma points upon traffic within that State from 1903. Appendix. *Id.* (398).

Rates from Kansas City to six points in Oklahoma, and the rates for the same distance under seven scales offered for comparison. *Id.* (399).

Standard distance scale and jobbers' scale from certain points for traffic within Kansas. *Id.* (399).

Statement showing the amounts that the proposed distance class scale between Oklahoma and Texas exceeds the former "Shreveport" scale. *Id.* (401).

Statement showing specific class rates from Dallas, Tex., to points in panhandle of Texas on Rock Island compared with rates in suspended Oklahoma-Texas scale for same hauls. *Id.* (401).

First-class rate on screen doors and window screens, l. c. l. from Adrian, Mich., to Toledo, Ohio, permitted to be increased more than 5 per cent in order to line up rates between points in Indiana, Ohio, and Michigan, found justified. In view of further increases in the first-class rate allowed in 45 I. C. C. 254 and 45 I. C. C. 303, no further finding made. *Prentice & Co. v. N. Y. C. R. R. Co.* 405 (406).

Class M rate charged on hardwood lumber from Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., not found unreasonable compared with class P rate formerly in effect. *Belzoni Hardwood Lumber Co. v. S. Ry. Co. in Miss.* 665.

**CLASSIFICATION. See also TEXAS CLASSIFICATION; WESTERN CLASSIFICATION.****In General:**

Orders prescribing ratings or classifications for the future are matters of public concern and are not based upon fixed and unchanging state of facts. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (337).

Certain rates and rules of the Texas classification contrasted with corresponding rates and rules of the western classification. *Id.* (339).

Transportation between Shreveport and Texas points should be governed by the provisions of the current western classification in effect at the time such traffic moves, with such exceptions as are then applied on interstate traffic between points in the State of Texas and points in contiguous states. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (346).

Applicability of class rates is determined by the governing classification, which is, in general, a list of articles that will move on the class rates, in the absence of specific commodity rates. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (369).

Fleshings: Rating of fifth class on fleshings, c. l., from Stoneham, Mass., to Keene, N. H., found unreasonable to the extent it exceeded sixth-class rate contemporaneously in effect. Reparation awarded. *American Glue Co. v. B. & M. R. R.* 19 (20).

**CLASSIFICATION—Continued.**

**Kitchen cabinets:** Ratings applied by defendants in official classification territory on kitchen cabinets and kitchen-cabinet tables, l. c. l., increased since January 1, 1910, found justified and those not so increased not shown unreasonable. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (523, 524).

**Milk, condensed and evaporated:** Rating of third class on l. c. l., shipments of, from Philadelphia, Pa., Rising Sun, Md., and other points to points in Official Classification Territory found unreasonable to the extent they exceeded rating of 20 per cent less than third class contemporaneously applicable on l. c. l. shipments. Reparation awarded. *Sharpless Co. v. P., B. & W. R. R. Co.* 425 (426).

**Poultry, live:** Statement in original report, of the existing rate on live poultry from Mitchell, S. Dak., to New York, N. Y., found to be in error to the extent that the second-class rating provided in western classification instead of the third-class rating provided in western trunk line exceptions, was used in arriving at the existing rate, and the original report is hereby modified to this extent. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.*, 40 (41).

**Soap:** Ratings on, in containers other than glass and earthenware, any quantity in southern classification dependent upon the value of the soap declared in writing by the shipper, which were in effect when the Cummins amendment of August 9, 1916, was approved and not authorized or required to be maintained by order of the Commission, are unlawful. *Williams Co. v. H. & N. Y. T. Co.*, 269.

**Tubs, butter:** Proposed increased rating from class D to class C in western trunk line territory found not justified. *Wooden Package Rating*, 708 (713).

**Wet-rag pulp:** In absence of specific rating on, in official classification territory, the commodity took the sixth-class rates applicable on wood pulp. Increased rating to fifth class found justified. *Srere Bros. & Co. v. C., C., C. & St. L. Ry. Co.*, 515.

**Whisky:** Ratings in official and western classifications shown. *Tonies v. S. Ry. Co.*, 681 (683).

**Wooden pails:** Proposed increased rating from class D to class C on wooden pails, tubs other than butter tubs, and kits, and on fiber board pails, in straight or mixed carloads, or when mixed with wooden barrels, kegs, well buckets, and drums, in western trunk line territory found justified. *Wooden Package Rating*, 708 (713).

**CLASSIFICATION TERRITORIES.**

The fact standing alone that in some instances discriminatory rates, or violations of the fourth section, results from the application of different classifications does not necessarily justify condemnation of the ratings attacked. *Showers Bros. Co. v. A. A. R. R. Co.*, 518 (523).

**COMBINATION RATES. See also JOINT RATES; THROUGH AND LOCAL; THROUGH RATES.**

Rates on fresh meats and packing-house products from Cedar Rapids, Iowa, to points east of Chicago, Ill., resulting from the limitations of M. C. R. R.'s peddler car tariff, found unreasonable to the extent they exceeded the lowest combination on the Mississippi River. As conclusions have been complied with no order is necessary. *Sinclair & Co. (Ltd.) v. C., M. & St. P. Ry. Co.*, 295 (296).

Contention by defendants that cancellation of group 5 joint rates applicable on lumber from Fullerton, La., to Kansas and Nebraska points was effected by supplemental tariff effective January 31, 1915, not sustained. Refund of the difference between the illegal combination assessed and joint rates legally applicable authorized. *Gulf Lumber Co. v. G. & S. R. R. R. Co.*, 461 (462).

**COMBINATION RATES—Continued.**

Upon reconsideration combination rate based on Kansas City, Mo., assessed on shipment of bulk corn from Homer, Nebr., to Joplin, Mo., found illegal. Reparation awarded on basis of joint through rate legally applicable. *King Elevator Co. v. C., B. & Q. R. R. Co.*, 618 (620).

**COMMITTEES.**

Protective committees formed representing holders of Terminal first and second mortgage bonds when the Terminal defaulted in payment of interest on its first-mortgage bonds. *Wabash Pittsburgh Terminal Investigation*, 96 (139).

**COMMODITY RATES.**

In general:

Authority to file increased carload and less-than-carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto granted carload rates and denied less-than-carload rates. *Transcontinental Commodity Rates*, 79 (95).

Authority to file increased export and import commodity rates between eastern defined territories and Pacific coast ports applicable on traffic from points in Japan, Australia, New Zealand, Fiji Islands, the Philippine Islands, and Asiatic countries granted. *Id.* (94).

Establishment of commodity rates is governed largely by volume of movement and usage in the territory affected. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (341).

Order of July 7, 1916, prescribing commodity rates and carload minima for movement between Shreveport and points in Texas modified and scale of rates prescribed herein. *Id.* (350).

Commodities moving in large volume are accorded what are known as commodity rates, i. e., specific rates applicable only on a designated commodity and articles grouped therewith. *Id.* (369).

Barley, beans, etc.: Authority sought by rail-and-water lines through Galveston to increase rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports in California to the Atlantic seaboard to the level of the all-rail rates on the same commodities granted. *Transcontinental Commodity Rates*, 79 (95).

Cottonseed products: Proposed increased commodity rates on cottonseed products from points on the C., R. I. & P. Ry. in Oklahoma to points in the Texas panhandle found not justified. Suggested that commodity rates be established on basis of scale prescribed in 41 I. C. C., 83. *Cottonseed Products to Texas*, 297 (302).

Paper, roofing: Proposed cancellation of commodity rates on roofing paper from California terminals to points in eastern territory, groups A to H, inclusive, found justified. *Eastbound Transcontinental Roofing Paper*, 17 (18).

Sugar: General readjustment of commodity rates on sugar from New Orleans, La., and from the north and the south Atlantic ports to points in the southeast found justified. *The Southeastern Sugar Cases*, 739 (755).

**COMPARATIVE RATES.**

Elevator guides: Proportional rate on elevator guides from East Burlington, Ill., to Denver, Colo., on shipments originating at East Buffalo, N. Y., found unreasonable to the extent it exceeded proportional rate applicable on structural iron and steel approved in 36 I. C. C. 86. *Otis Elevator Co. v. N. Y. C. R. R. Co.* 487 (489).

Glucose paste: Third-class rate on, from New York, N. Y., to Atlanta, Ga., found legally applicable and not shown unreasonable as compared with commodity rate on molasses. *Schlesinger v. C. of Ga. Ry. Co.* 413 (414).

**COMPARATIVE RATES—Continued.**

Grain and grain products: Contended that rates on grain products should not exceed the rates on grain, *Held*, Record insufficient to show that the rates on grain products should not exceed those on grain. *Beebe Grain Co. v. B., A. & P. Ry. Co.* 623 (625).

Iron, scrap: Joint through class rate applicable on machinery assessed on shipment of scrap iron from Augusta, Ga., to Harrisburg, Pa., found illegal to the extent it exceeded commodity rate applicable on scrap iron. Reparation awarded. *Stein Junk Co. v. S. Ry. Co.* 703 (705).

Kitchen cabinets: Rates on, compared with rates on sectional bookcases and numerous articles of furniture. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (523).

Lumber: Rates on lumber from points on the N. & W. in Virginia and West Virginia to points in Pennsylvania, New Jersey, and other states, found unreasonable and unjustly discriminatory to the extent they exceeded rates on oak, spruce, and hemlock lumber. *Honaker Lumber Co. v. N. & W. Ry. Co.* 715 (723, 727).

Rails: Comparison of rates and earning on rails, brick, lumber, flour, and window glass for distances ranging from 26 to 601 miles, shown. *West Virginia Rail Co. v. C. & O. Ry. Co.* 600 (604, 605, 606).

Rails: Rates on old steel rails from Pittsburgh, Pa., to Huntington, W. Va., found unduly prejudicial to the extent they exceed rates contemporaneously in effect on new steel rails between the same points. *West Virginia Rail Co. v. P., C., C. & St. L. Ry. Co.* 675 (678).

Roll scale: Contention that inasmuch as Coatesville and Swedeland, Pa., under a group adjustment take the same rates on scrap iron, the joint commodity rates on roll scale from Elizabethport, N. J., to Coatesville is unreasonable to the extent it exceeds rate on roll scale to Swedeland, not sustained. *Kaufman & Sons Co. v. C. R. R. Co. of N. J.* 465 (466).

Sugar: Statement of carload rates on various commodities from Ohio River crossings and New Orleans to points in Georgia compared with rates on sugar from New Orleans to Atlanta. *The Southeastern Sugar Cases*, 739 (753).

Tubs, butter: Rate on, compared with such commodities as beer barrels and kegs, iron oil barrels, etc. *Wooden Package Rating*, 708 (711).

**COMPETITION.**

In general:

Competition alone is not the only factor to be considered in the fixing of groups and rates. To take into consideration commercial and competitive conditions only would be to disregard distance and transportation conditions and to revert to the discarded equalization of cost theory; and to carry this theory to its logical conclusion would compel the consideration of the cost to the industry of manufacturing its products, which, of course, is clearly beyond the Commission's powers under the law. *The Grouping of Monessen and Donora*, 650 (653).

Competition has often been the agency through which the public received reasonable rates. *The Southeastern Sugar Cases*, 739 (742).

Articles:

Assertion that kitchen cabinets compete with cheap buffets, and with portable and built-in cupboards, not sustained. *Showers Bros. Co. v. A., A. R. R. Co.* 518 (524).

Fiber pails are sold in active competition with wooden pails as containers for candy and other commodities. *Wooden Package Rating*, 708 (711).

**COMPETITION—Continued.****Market:**

It was admitted that the real object of the complaint is to open up the Wisconsin market to the sand and gravel pits of northern Illinois. *American Sand & Gravel Co. v. C. & N. W. Ry. Co.* 1 (3).

It is not the Commission's concern to equalize market competition. *Western Cement Rates*, 201 (234).

**Potential:**

Some difference in rates on potatoes from Minnesota and Wisconsin points to Memphis, Tenn., a point served by 11 carriers and where actual water competition exists, and Helena, Ark., a point served by branch lines, at which water competition is largely potential, justified, but the present spread found unduly prejudicial to Helena, and reasonable relationship prescribed. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (310, 311).

Actual water competition at Memphis, Tenn., and potential water competition at Helena, Ark., does not warrant the present spread in rates between Memphis and Helena. *Id.* (310).

**Wagon:**

The practice of making rates in Texas lower than the Texas scale to meet wagon competition has been abandoned. *Southwestern Class Case*, 379 (385).

**Water:**

Some difference in rates on potatoes from Minnesota and Wisconsin points to Memphis, Tenn., a point served by 11 carriers and where actual water competition exists, and Helena, Ark., a point served by branch lines at which water competition is largely potential, justified, but the present spread found unduly prejudicial to Helena, and reasonable relationship prescribed. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (310, 311).

Contention that the meeting of water competition by carriers at one point does not necessarily involve their meeting it to an identical degree at another destination; *Held*, while carriers may have an option in meeting water competition, they may not exercise this option to the undue prejudice of any locality. *Id.* (309).

Actual water competition at Memphis, Tenn., and potential water competition at Helena, Ark., does not warrant the present spread in rates between Memphis and Helena. *Id.* (310).

**CONCENTRATION.** *See* TRANSIT ARRANGEMENTS.

**CONCESSION.**

The device of giving to a particular shipper an advantage through the payment of a fictitious or excessive claim for loss and damage of property in transit effects the same unlawful results and carries with it the same penalties as departures or concessions from the published rates. *Claims for Loss and Damage of Grain*, 530 (568).

**CONDITIONAL RATE.** *See* RELEASED RATES.

**CONFERENCE RULINGS.** *See* ADMINISTRATIVE RULINGS.

**CONFISCATORY RATES.**

A rate which just misses being confiscatory is not necessarily a just and reasonable rate. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (368).

**CONFLICTING RATES.**

Where tariff contained conflicting items, shipper is entitled to the lower of conflicting rates. Damages awarded on this basis on mine cars from Youngstown, Ohio, to Clarkdale, Ariz. *United Verde Copper Co. v. P. Co.* 663 (664).

**CONGESTION.**

Our transportation systems are now being taxed to the utmost, and it is essential that every means of carriage be utilized to the fullest extent. R. R. Comm. of La. v. A. H. T. Ry. Co., 312 (331).

**CONGRESS.**

Congress has full and complete power to regulate the operations of carriers engaged in interstate commerce under the commerce clause of the Constitution, which power may be delegated in an appropriate manner to a body designated by the Congress, as has been done in the act to regulate commerce. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (359).

**CONSTRUCTION.**

Conditions encountered in constructing the Wabash Pittsburgh Terminal Ry. Co. Wabash Pittsburgh Terminal Ry. Investigation, 96 (112).

**CONTRACTS.**

Between the Carnegie Steel Co., the Union Railroad, and the Pittsburgh-Toledo syndicate. Wabash Pittsburgh Terminal Investigation, 96 (110).

**COST OF CONSTRUCTION.**

Wabash Pittsburgh Terminal Ry. Co., etc., Wabash Pittsburgh Terminal Investigation, 96 (112, 116).

**COST OF OPERATION.**

Increases in prices of supplies during period February 1, 1916, to January 31, 1917, as compared with cost in 1914. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (325).

**COST OF SERVICE. See also STATION COSTS; TRIMMING COAL.**

Present switching charges from Sheffield, Mo., to Kansas City, Kans., on crushed rock from Pixleys, Mo., are less than the operating cost and the increases proposed will not take care of the deficit. Proposed increased charges justified. Crushed Rock from Pixley's, Mo., 577 (580).

**CROSS CREEK R. R. CO.**

History of incorporation. Wabash Pittsburgh Terminal Investigation, 96 (105).

**CUMMINS AMENDMENT.**

Ratings on soap in containers other than glass and earthenware, any quantity, in southern classification, dependent upon the value of the soap declared in writing by the shipper, which were in effect when the Cummins amendment of August 9, 1916, was approved, and not authorized or required to be maintained by order of the Commission, are unlawful. Williams Co. v. H. & N. Y. T. Co. 269.

The plain and unmistakable purpose of the Cummins amendment was to make unlawful and void, except as otherwise provided therein, all attempted limitations of liability for loss, damage, or injury to property transported. Id. (273).

**DAMAGES.**

Finding in original report, 24 I. C. C., 297, that complainant is entitled to reparation on shipments of lumber from Texas and Louisiana points to Las Cruces, N. Mex., adhered to upon rehearing. Bascom-Porter Co. v. A., T. & S. F. Ry. Co. 65 (66).

Undue prejudice to the Ohio Quarries Co., found in *Lorain & Southern R. R. Co. Case*, 37 I. C. C. 497, to have existed on and after April 1, 1914, not shown to have damaged complainant, and reparation denied. Ohio Cut Stone Co. v. N. Y. C. R. R. Co. 69 (74).

Reparation denied, as a result of the failure to attack the through rate, instead of the component from Canalou, Mo., to Thebes, Ill. Brown Stave Co. v. St. L. & S. F. R. R. Co. 75 (76).

In denying reparation on cement from Chanute, Kans., to Zion and Macksburg, Iowa, the Commission adhered to the principle that in a comprehensive and

**DAMAGES—Continued.**

systematic readjustment of rates in a large territory, claims for reparation will not ordinarily be allowed. *Sunderland Brothers Co. v. A., T. & S. F. Ry. Co.* 377 (378).

Misquotation of rate by carrier's agent affords no basis for an award of reparation. *El Paso Iron & Metal Co. v. G., H. & S. A. Ry. Co.* 427.

Section 13 provides that "no complaint shall at any time be dismissed because of the absence of direct damage to the complainant." *Producers Sales Co. v. N. Y., N. H. & H. R. R. Co.* 438 (440).

Damages necessary to justify an award of reparation where rates on yellow-pine lumber from points in Louisiana and Mississippi to Metropolis, Ill., and Paducah, Ky., have been found unduly prejudicial in favor of Cairo, Ill., not shown. *Enochs & Wortman v. I. C. R. R. Co.* 443.

Complainants not shown to have been damaged by undue prejudice on shipments of live stock to San Francisco and Oakland, Cal., in the past. *Roth-Blum Packing Co. v. S. P. Co.* 470 (472).

No proof was introduced to show that any of the complainants paid the charges on shipments of lumber from Milan, Wash., to Lamar and Flagler, Colo., and reparation is therefore denied. *Spokane Lumber Co. v. G. N. Ry. Co.* 627 (631).

Refusal to make an allowance for the switching of inbound and outbound cars to and from convenient points on switch tracks serving quarries of complainant while performing a similar service for complainant's competitors without charge found unreasonable and reparation awarded. *Westport Stone Co. v. C., C., C. & St. L. Ry. Co.* 637 (641).

Evidence with respect to the estimated cost of the service, the number of shipments, and the existence of competition is not sufficient to sustain a recovery of damages. *Id.* (640).

Claim for reparation on emigrant movables from Boswell, Okla., to Clarksville, Ark., dismissed for want of proof. *Stephens v. St. L. & S. F. R. R. Co.* 649.

Where tariff contained conflicting items, shipper is entitled to the lower of conflicting rates. Damages awarded on this basis on mine cars from Youngstown, Ohio, to Clarkdale, Ariz. *United Verde Copper Co. v. P. Co.* 663 (664).

Local rate from Memphis, Tenn., to Mobile, Ala., on shipments of oats from Blanket, Tex., found unreasonable to the extent it exceeded reshipping rate applicable only when reshipping certificate was executed. Reparation awarded and local rate ordered reduced to equal reshipping rate, with no restrictions. *Pittman & Harrison Co. v. Ft. W. & R. G. Ry. Co.* 671 (672).

**DANGEROUS ARTICLES.**

Varnish remover is within the class of dangerous articles requiring a red label as prescribed by the Commission. *Wilson Remover Co. v. C., M. & St. P. Ry. Co.* 453 (454).

**DELEGATION OF AUTHORITY. See CONGRESS; JURISDICTION.****DELIVERY.**

Complainants are entitled to have shipments of hay delivered to Bushwick Station, Brooklyn, with the usual free time allowance, until the declaration of an embargo against said station. *Schaeffer & Son v. L. I. R. R. Co.* 25 (30).

Contention that demurrage charges assessed at Detroit, Mich., on lumber from Klickitat, Wash., as a result of failure of carriers to promptly notify complainant of inability to make delivery and to promptly comply with disposition order, were unreasonable and discriminatory, not sustained. *Bertles & Bertles v. M. C. R. R. Co.* 463.

Placing of cars on tracks within the plant inclosure designated by the industry constituted delivery by the truck lines under their line haul rate; subsequent service of switching cars to points of placement within the plant inclosure

**DELIVERY—Continued.**

constitutes an additional movement for which an additional charge must be made if it is performed by the trunk lines. *Marting Iron & Steel Co. Case*, 620 (622).

**DEMURRAGE.**

Demurrage charges assessed at Long Island City on shipments of hay consigned to Bushwick Station, L. I., but held at Long Island City, a point short of billed destination, on account of the declaration of an embargo while the shipments were in transit, found to have been assessed without tariff authority. Reparation awarded. *Schaeffer & Son v. L. I. R. R. Co.* 25 (30).

Demurrage charges accruing during the pendency of a dispute as to the lawful rate, and the refusal of the consignee to pay the rate legally applicable over the route of movement, were properly collected. *Ewing & Co. v. S. I. Ry. Co.* 415 (417).

Contention that demurrage charges assessed at Detroit, Mich., on lumber from Klickitat, Wash., as a result of failure of carriers to promptly notify complainant of inability to make delivery and to promptly comply with disposition order, were unreasonable and discriminatory, not sustained. *Bertles & Bertles v. M. C. R. R. Co.* 463.

Demurrage charges on a shipment of oil alleged to have been loaded contrary to instructions on board a lighter in New York harbor, not shown improperly assessed. *Lunham & Moore v. C. R. R. Co. of N. J.* 611.

Demurrage charges collected on carload shipments of hay at Madison, Wis., and Chicago, Ill., which could not be forwarded as directed on account of an embargo to prevent the spread of the foot-and-mouth disease, not found to have been unlawfully collected. *Union Hay Co. v. C. & N. W. Ry. Co.* 691.

**DEVELOPMENT.**

Growth of the cement industry and location and dates of construction of cement mills. *Western Cement Rates*, 201 (207).

**DIFFERENTIALS.**

The record affords no basis for the approval of the contention that Libby, Mont., should take a differential of 3 cents less than Bonners Ferry, Idaho, which would produce a lower ton-mile earning for the shorter distance. *Libby Lumber Co. v. G. N. Ry. Co.* 5 (6, 7).

Differential over Paducah, Ky., on traffic from points in trunk line territory to Mayfield, Ky., found unduly prejudicial to the extent it exceeds the relationship prescribed herein. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.* 45 (57).

Proper differentials to be maintained to key points in connection with distance scale prescribed herein, enumerated. *Western Cement Rates*, 201 (249-250).

Reasonable differential on cement from Ada, Okla., to destinations in western trunk line territory should not exceed by more than 5 cents the rates to the same destinations from the Kansas gas belt. *Id.* (258).

Spread in the present rates between Memphis, Tenn., and Helena, Ark., on potatoes from points in Minnesota, Wisconsin, Wyoming, and Colorado, found unduly prejudicial to Helena in favor of Memphis, and reasonable relationship prescribed. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (311).

Since differentials were applied in differential territory supposedly on account of sparsity of population and traffic, it is difficult to see how application there of a higher rate than in common-point territory for a 300-mile haul, but an equal rate for a 200-mile haul could be justified. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (332).

Class rates between Shreveport and points in interstate differential territory in Texas may exceed the maximum rates prescribed by differentials herein prescribed, corresponding to the hauls in differential territory. *Id.* (346).

**DIFFERENTIALS—Continued.**

Differential basis for rates to and from Galveston is of long standing, and in the absence of evidence of its unduly prejudicial effect upon the commerce of Shreveport the Commission is without authority to disturb it under the issues before it. *Id.* (358).

Differential on joint line hauls for various classes prescribed. *Southwestern Class Case*, 379 (395, 396).

Class rates between points in Oklahoma or Kansas and points in differential territory in Texas may exceed maximum rates prescribed by the differentials enumerated. *Id.* (396).

Rates on coconuts and pineapples from New Orleans, La., to Tulsa, Okla., found unreasonable and unduly prejudicial to the extent they exceed by more than 5 cents the rates contemporaneously in effect to Muskogee, Okla., and Joplin, Mo. *Tulsa Traffic Asso. v. A., T. & S. F. Ry. Co.* 731 (732).

Rates on live stock from Tabor, Iowa, to South Omaha, Nebr., found unreasonable to the extent they exceeded by more than 2 cents per 100 pounds the rates from Malvern, Iowa. *Laird v. T. & N. Ry. Co.* 733 (737).

**"DIFFERENTIAL TERRITORY."**

Points in the panhandle of Texas are included in the large area of western Texas described as "differential territory" to which rates generally are higher, dependent upon distance, than those between Shreveport, La., and points in Texas common-point territory. *Cottonseed Products to Texas*, 297.

Boundaries of Texas differential territory should be the same as those in report of the Commission upon rehearing of Shreveport Case, 41 I. C. C. 83. *Southwestern Class Case*, 379 (395).

**DIRECTOR GENERAL.**

By order of the Director General, issued December 29, 1917, carriers are required to provide and to use through routes, regardless of line ownership, wherever increased transportation efficiency can be thereby secured. *Petroleum from Oklahoma Points*, 737 (738).

**DISCRIMINATION. See also PREFERENCES AND PREJUDICES.**

What constitutes undue and unreasonable prejudice and disadvantage is a question of fact and not of law. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (364).

Upon complaint that defendant's refusal to make an allowance for switching and weighing service performed by complainant on traffic from its plant to point of interchange with defendant's line at Wiggins, Miss., is unreasonable and in violation of section 15; *Held*, Refusal to reimburse not found unreasonable and that in the absence of unjust discrimination defendant was under no obligation to perform the service. *Finkbine Lumber Co. v. G. & S. I. R. R. Co.* 705 (707).

Contended that by application of class C rates on interstate shipments of wooden pails and tubs, etc., while leaving intrastate rates on the class D basis will result in unjust discrimination; *Held*, Instances cited do not clearly indicate the extent of such discrimination or whether they would result in unlawful prejudice to shippers in interstate commerce. *Wooden Package Rating*, 708 (712, 713).

Rates from points on N. & W., on lumber other than oak, spruce, and hemlock to Baltimore and Philadelphia and points grouped therewith, not found unreasonable, but found unjustly discriminatory; removal of unjust discrimination required. *Honaker Lumber Co. v. N. & W. Ry. Co.* 715 (723).

Rates on lumber from points on the N. & W. in Virginia and West Virginia to points in Pennsylvania, New Jersey, and other states found unreasonable and unjustly discriminatory to the extent they exceed rates on oak, spruce, and hemlock lumber. *Id.* (727).

**DISTANCE.**

The distances from Nashville to Cincinnati and St. Louis are approximately the same, and there are no facts of record which justify substantial differences in the rates to those points. Live Stock from Nashville, Tenn., 277 (280).

In arriving at distance which is to determine the rates between any two points, that route should be used, whether by single or joint line, which will produce the lowest rate. Southwestern Class Case, 379 (397).

Competition alone is not the only factor to be considered in the fixing of groups and rates. To take into consideration commercial and competitive conditions only would be to disregard distance and transportation conditions and to revert to the discarded equalization of cost theory; and to carry this theory to its logical conclusion would compel the consideration of the cost to the industry of manufacturing its products, which of course is clearly beyond the Commission's powers under the law. The Grouping of Monessen and Donora, 650 (653).

**DISTANCE SCALE.**

In checking out rates under a distance tariff via the routes of different carriers where the short line makes the rate, if intermediate points via the longer lines can not exceed the terminal rate, the result will be a scale of rates via these lines which is substantially below the distance tariff. In other words, the distance tariff would simply be a maximum basis upon which to check out the rates. Western Cement Rates, 201 (224).

Principle of a distance scale outlined. Id. (233).

In making rates between territories of different rate levels the rate for the entire distance should be calculated under each scale and an average taken. Id. (238).

Reasonable joint through rates to key points and distance scales prescribed for the movement of cement between points in western trunk line territory and between points in adjacent territories and western trunk line territory. Id. (240, 249).

Table of rates to the principal key points from producing mills in western trunk line territory found reasonable. Id. (241).

Boundaries of scales I, II, III, and IV, outlined. Id. (238, 246).

Buffington, Ind., is within the limits of the Chicago switching district, and distances from and to Buffington should be calculated upon the basis of distances from and to Chicago. Id. (244).

Table of rates for the four scales for distances ranging from 5 to 1,200 miles. Id. (247).

Map outlining territory within which the distance scale found reasonable herein shall apply. Id. (facing page 247).

Rates prescribed from Gilmore City, Iowa, to all interstate destinations within the territory. Id. (249).

Distances to be calculated via short-line workable routes. Id. (255).

Rates prescribed in 41 I. C. C. 83, on beef and stock cattle between Shreveport and points in Texas modified to provide stock cattle rates to market points and to grade the distance scale more closely. Shreveport-Texas Cattle, Lignite, Wood, and Tanbark, 283 (291-292).

All distance scales and group rates must of necessity disregard slight inequalities in cost of service and other conditions. Id. (286).

Whether or not a distance scale may properly be prescribed is peculiarly a matter to be determined from a consideration of all the circumstances and conditions. Id. (286).

Order prescribing class rates for transportation of property between Shreveport and Texas interstate common point territory, modified, and scale of rates prescribed. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (345).

**DISTANCE SCALE—Continued.**

Combination of local rates on cement from Chanute, Kans., to Zion and Mackburg, Iowa, found unreasonable to the extent they exceed distance scale authorized in 48 I. C. C., 201, applicable in this territory. *Sunderland Brothers Co. v. A., T. & S. F. Ry. Co.* 377 (378).

Proposed increased class rates between points in Oklahoma and Texas, between Oklahoma and Shreveport, La., between Kansas and the panhandle of Texas, and between points in Oklahoma, not justified. Scale of rates based on distance prescribed. *Southwestern Class Case*, 379 (395).

Proposed increased rates on cement from Kansas points to points on the C., B. & Q. R. R., in South Dakota, Wyoming, and Montana, found not justified. Distance rates not in excess of scales 3 and 4 prescribed in 48 I. C. C., 201, authorized. *Cement to Montana*, 402 (404).

**DIVERSION.**

Defendants should have permitted the diversion of a carload of cullett from Winston-Salem, N. C., to New Kensington, Pa., at Potomac Yard, Va., to Jeanette, Pa., on basis of through rate from Winston-Salem to Jeanette, plus charge of \$5 for diversion. *American Window Glass Co. v. S. Ry. Co.* 451.

**DOOR BOARDS.** *See CAR FITTING.*

**DOUBLE-DECK CARS.**

Hogs: Proposed cancellation of rates on hogs, in double-deck cars, from Nashville, Tenn., to Ohio River crossings, St. Louis, Mo., and East St. Louis, Ill., found not justified, but readjustment suggested. *Live Stock from Nashville, Tenn.*, 277 (280).

Table showing present and proposed rates on hogs and sheep, single-deck and double-deck, and cattle, horses, and mules, c. l., from Nashville, Tenn., to Cincinnati, Ohio, St. Louis, Mo., and other points. *Id.* (278).

**"DUMPING."**

Described as to cargo coal. *Dougherty Co., v. B. & O. R. R. Co.*, 407 (408).

**EARNINGS.**

In general:

Table showing average haul, average revenue per ton-mile, and total revenue earned by roads operating in differential territory on interline, state, and interstate freight traffic, year ended June 30, 1916. *R. R. Comm. of La. v. A. H. T. Ry Co.*, 312 (334).

Bottles, empty: Ton-mile and car-mile earnings on, for distance of 178 miles, shown. *El Paso Iron & Metal Co. v. A., T. & S. F. Ry. Co.*, 479 (480).

Coffee, green: Earning on, for distances ranging from 681 to 844 miles, shown. *Alton Mercantile Co. v. I. C. R. R. Co.*, 668 (670).

Lumber, yellow pine: Ton-mile and car-mile earnings on, for distances ranging from 853 miles to 1,061 miles, shown. *Bascom-French Co. v. A., T. & S. F. Ry. Co.*, 62 (63, 64).

Lumber, yellow pine and hardwood: Ton-mile and car-mile earnings on, for approximately 144 miles, shown. *West Lumber Co. v. M., K. & T. Ry. Co. of Texas*, 22 (23).

Mattresses: Ton-mile and car-mile earnings on, shown. *Sealey Mattress Co. v. S. L. Ry. Co.*, 447 (448).

Rails: Ton-mile and car-mile earnings on rails, brick, lumber, flour, and window glass for distances ranging from 26 to 601 miles, shown. *West Virginia Rail Co. v. C. & O. Ry. Co.*, 600 (604, 605, 606).

Rollers, wooden: Ton-mile and car-mile earnings on, for distances of 1,061 and 2,569 miles, shown. *Boorman-Power Lumber & Implement Co. v. C., R. I. & P. Ry. Co.*, 695 (696).

Salt, rock: Earnings on, for distances of 326 and 403 miles, shown. *Purity Ice Cream Co. v. A., T. & S. F. Ry. Co.*, 684 (685).

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**EQUIPMENT.**

Equipment used by the Terminal prior to the receivership was furnished by the Wheeling & Lake Erie, Wabash, and West Side Belt. Wabash Pittsburgh Terminal Investigation, 96 (135).

Shippers are instructed not to use cars which are unfit, but frequently, in times of car shortage, it is necessary for them to do so or to refrain from shipping. Claims for Loss and Damage of Grain, 530 (548).

Shippers should reject cars that are unfit for loading and the carriers should refuse to accept any shipment tendered in an unfit car or where the shipper has failed properly to install the grain doors or otherwise to prepare the car for the safe transportation of grain. *Id.* (571).

**ERROR. See also FINDINGS OF COMMISSION.**

Statement in original report, of the existing rate on live poultry from Mitchell, S. Dak., to New York, N. Y., found to be in error to the extent that the second-class rating provided in western classification instead of the third-class rating provided in western trunk line exceptions, was used in arriving at the existing rate, and the original report is hereby modified to this extent. Commercial Club of Mitchell, S. Dak. *v.* A. & W. Ry. Co. 40 (41).

Rate on oak staves from Harrison, Ark., to New York, N. Y., not shown unreasonable as compared with rate subsequently established through error. Hollingshead & Blei Co. (Inc.) *v.* M. & N. A. R. R. Co. 449.

**EVIDENCE.**

Definite and conclusive evidence is necessary to support a finding that a charge is unreasonable or unduly prejudicial. Producers Sales Co. *v.* N. Y., N. H. & H. R. R. Co. 438 (440).

Commission not to be understood as holding, because of its reference to evidence as to defendant's financial conditions, that evidence on these points has an important place in cases involving only one commodity which constitutes but a small proportion of the carriers' entire traffic. The Southeastern Sugar Cases, 739 (742).

Commission not justified in entirely ignoring rate comparisons offered in evidence by the defendants which were not accompanied by a showing as to transportation conditions. *Id.* (755).

**EXHIBITS. See APPENDIX.****EXPEDITED SERVICE.**

An average speed in excess of that for ordinary freight must be maintained on shipments of livestock in order to render satisfactory service. Shreveport-Texas Cattle Lignite, Wood, and Tanbark, 283 (287).

**EXPENDITURES.**

Consolidated statement of, for road and equipment by predecessor companies of the Wabash Pittsburgh Terminal Ry. Co. and the Pittsburgh & Carnegie R. R. Co. to May 10, 1904. Wabash Pittsburgh Terminal Investigation, 96 (154).

Statement of, for road and equipment, as of dates designated. *Id.* (156).

**EXPORT RATES.**

Authority to file increased export commodity rates from eastern defined territories to Pacific coast ports applicable on traffic from points in Japan, Australia, New Zealand, Fiji Islands, the Philippine Islands, and Asiatic countries granted. Transcontinental Commodity Rates, 79 (94).

Complainant requested an 80,000-pound capacity car, and carrier furnished a 100,000-pound capacity car for shipment of wheat to New York for export. Bill of lading contained no notation that wheat was for export and domestic rate based on minimum of 60,000 pounds was assessed. Complaint dismissed. Dewey Bros. Co. *v.* P., C., C. & St. L. Ry. Co. 467.

**FABRICATION. See TRANSIT ARRANGEMENTS.**

FACTOR.

Local scale of rates from Paducah, Ky., to Mayfield, Ky., used as a component of the joint through class rate from points in trunk line territory to Mayfield Ky., not found unreasonable but to be unduly prejudicial to Mayfield in favor of Paducah, Ky., to the extent it exceeds the relationship prescribed herein. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.* 45 (57).

Rate factor from Mayfield, Ky., to Paducah, Ky., of the through rate on unmanufactured tobacco, in hogsheads, to points in trunk line territory, which exceed by more than 2 per cent the rate factor from Paducah to Mayfield, Ky., not found unreasonable or unduly prejudicial. *Id.* (46, 58).

Reparation denied, as a result of the failure to attack the through rate instead of the component from Canalou, Mo., to Thebes, Ill. *Brown Stave Co. v. St. L. & S. F. R. R. Co.* 75 (76).

Too much emphasis should not be placed upon the separate factors entering into the composition of rate scales. The important problem is the determination of the reasonableness and nondiscriminatory character of the entire rate and not that of its component parts. *Western Cement Rates*, 201 (235).

Rate on elevator guides from East Buffalo, N. Y., to Denver, Colo., found unreasonable to the extent that factor from East Burlington, Ill., to Denver, Colo., exceeds the rate applicable on iron and steel articles approved in 36 I. C. C. 86. *Otis Elevator Co. v. N. Y. C. R. R. Co.* 487 (489).

Rates legally applicable on wool in the grease from Ellison and Winnemucca, Nev., to Smoot and Provo, Utah, found unreasonable to the extent the component from Ellison and Winnemucca to Salt Lake City exceeded rates subsequently established. Reparation awarded. *Knight Woolen Mills v. D. & R. G. R. R. Co.* 501 (504).

Factor of combination rate from Hospers to Council Bluffs, Iowa, on shipment of bulk corn to Atchison, Kans., not found unreasonable or prejudicial because it exceeded rate applicable on intrastate traffic, which was subsequently made applicable to interstate traffic. *Flanley Grain Co. v. C., St. P., M. & O. Ry. Co.* 505.

Through rate on corn from Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans., not shown unreasonable to the extent that the factor north of Omaha, Nebr., and Council Bluffs, Iowa, exceeded the intrastate rate applicable from Sheldon to Council Bluffs. *McCaull-Dinsmore Co. v. C., B. & Q. R. R. Co.* 507 (509).

Through charges on chestnut extract wood from points on L. & N. R. R. in Georgia to Andrews, N. C., found unreasonable to the extent that component from Murphy to Andrews, N. C., exceeded 60 cents per cord. Reparation awarded. *Carolina Wood Products Co. v. S. Ry. Co.* 582 (586).

Local rate from Memphis, Tenn., to Mobile, Ala., on shipments of oats from Blanket, Tex., found unreasonable to the extent it exceeded reshipping rate applicable only when reshipping certificate was executed. Reparation awarded and local rate ordered reduced to equal reshipping rate with no restrictions. *Pittman & Harrison Co. v. Ft. W. & R. G. Ry. Co.* 671 (672).

Rates on artificial stone from St. Louis, Mo., to Drumright, Okla., found unreasonable to the extent that the factor from Cushing to Drumright, Okla., exceeded rate subsequently established. Reparation awarded. *Algonite Stone Mfg. Co. v. A., T. & S. F. Ry. Co.* 689 (690).

Rates on wooden rollers from Baton Rouge, La., to Gilman, Mont., found unreasonable to the extent that factor from Minnesota Transfer, Minn., to Gilman, Mont., exceeded rate subsequently established. Reparation awarded. *Boorman-Power Lumber & Implement Co. v. C., R. I. & P. Ry. Co.* 695 (696).

FIFTEENTH SECTION APPLICATION. *See APPLICATION.*

**FINANCIAL CONDITIONS.** *See also* **WEAK LINES.**

Of Texas railroads. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (342).

Commission not to be understood as holding, because of its reference to evidence as to defendants' financial conditions, that evidence on these points has an important place in cases involving only one commodity which constitutes but a small proportion of the carriers' entire traffic. *The Southeastern Sugar Cases*, 739 (742).

**FINANCIAL INVESTIGATION.**

Wabash Pittsburgh Terminal, 96.

**FINDING OF COMMISSION.**

Statements and findings in regard to alleged errors of fact in Commission's report of July 7, 1916, 41 I. C. C. 83. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (319).

**FIXING RATES.** *See also* **JURISDICTION.**

The practice of making through rates on cement on basis of combinations approved as to St. Paul but disapproved as to Missouri River crossings. *Western Cement Rates*, 201 (251).

**FOOT-AND-MOUTH DISEASE.**

Demurrage charges collected on shipments of hay at Madison, Wis., and Chicago, Ill., which could not be forwarded as directed on account of an embargo to prevent the spread of foot-and-mouth disease not found unlawfully collected. *Union Hay Co. v. C. & N. W. Ry. Co.* 691.

**FORMS.**

By the use of a standard form for the presentation of grain claims it is thought that the situation could be materially improved. *Claims for Loss and Damage of Grain*, 530 (372).

**FOURTH SECTION.** *See* **LONG AND SHORT HAUL; THROUGH AND LOCAL.****FUNDED DEBT.**

Terminal was greatly overcapitalized, and percentage of its funded debt to total capital obligations was unusually high. *Wabash Pittsburgh Terminal Investigation*, 96 (144).

**GRAIN DOORS.**

Where carriers furnish adequate grain doors, lumber, or other cooperage material, which they do not always do, and specifications for the use thereof, they should not be expected to pay for losses occasioned by the shipper's negligence. *Claims for Loss and Damage of Grain*, 530 (546).

**GROUP RATES.**

Claim of Michigan mills that for such portion of their haul as is within the southern peninsula of Michigan they are entitled to a lower-rate basis because the southern peninsula of Michigan is in C. F. A. territory, while true, can not be allowed, because the lower peninsula has been recently subdivided into three rate districts. *Western Cement Rates*, 201 (239).

Contention by defendants that cancellation of Group 5 joint rates applicable on lumber from Fullerton, La., to Kansas and Nebraska points was effected by supplemental tariff effective January 31, 1915, not sustained. Refund of the difference between the illegal combination assessed and joint rates legally applicable, authorized. *Gulf Lumber Co. v. G. & S. R. R. Co.* 461 (462).

Contention that inasmuch as Coatsville and Swedeland, Pa., under a group adjustment take the same rates on scrap iron, the joint commodity rates on roll scale from Elizabethport, N. J., to Coatsville is unreasonable to the extent it exceeds rate on roll scale to Swedeland, not sustained. *Kaufman & Sons Co. v. C. R. R. Co. of N. J.*, 465 (466).

**GROUPING.**

Monessen and Donora may not justly be grouped either with Johnstown or Pittsburgh for the transportation of iron ore from the lower Lake Erie ports. A

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**INDUSTRIAL SWITCHING—Continued.**

service of switching cars to points of placement within the plant inclosure constitutes an additional movement, for which an additional charge must be made if it is performed by the trunk lines. *Marting Iron & Steel Co. Case*, 620 (622).

No burden upon carriers to absorb the costs of switching cars from designated tracks within the plant inclosure to points of placement within the plant when performed by the shipper, if for commercial or manufacturing convenience the shipper excludes the carriers from performing the final placement by a single movement. *Id.* (622).

**INDUSTRIES. See also DEVELOPMENT.**

With the extension of cotton growing into the western part of Texas many of the large ranches have been split up into farms of smaller ranches. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (286).

**INFLATED INVESTMENT.**

Statements showing items which were and were not properly chargeable to certain accounts. *Wabash Pittsburgh Terminal Investigation*, 96 (117, 120).

**INFORMATION.**

Shippers are entitled to information as to the manner in which shipments are handled by the carrier and to be advised of any losses or damage occurring in transit. *Claims for Loss and Damage of Grain*, 530 (571).

**INSPECTION.**

In actual practice loading must be performed in a manner satisfactory to inspectors of each road, and where delivery is made by one road to another, the loading must be approved by inspectors of the receiving road. *Sand Point Lumber & Pole Co. v. N. P. Ry. Co.* 418 (420).

**INTEREST.**

Interest paid on funded and unfunded debt of Texas railroads was almost 4 per cent on the total indebtedness. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (343).

Where interest and taxes are borne by the tenant lines, those items can not be disregarded in determining the reasonableness of the switching charges. *Id.* (580).

Overcharges on flour from Fort Smith and Branch, Ark., to Lexington, Mo., ordered refunded with interest. *Lexington Flouring Mills v. M. P. Ry. Co.* 687 (688).

**INVESTIGATION.**

*Wabash Pittsburgh Terminal*, 96.

*Western Cement Rates*, 201.

In an investigation to determine the reasonableness of cement rates, the Commission will not conduct a general inquiry into the reasonableness of switching rates at terminals. *Id.* (252).

*Claims for Loss and Damage of Grain*, 530.

**INVESTMENT.**

Result of the operation of the Terminal shows that the building of this property was a poor business venture. *Wabash Pittsburgh Terminal Investigation*, 96 (144).

Case illustrates the great need for control of security issues and emphasizes the wisdom of the Commission's requirement, that the charges to the accounts reflecting the carriers' investment in road and equipment shall be based upon the cash cost of the property. *Id.* (144).

Average investment in the Texas railroads as represented by the valuation made by the Texas commission. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (342).

## ISSUE.

In an investigation to determine the reasonableness of cement rates, the Commission will not conduct a general inquiry into the reasonableness of switching rates at terminals. *Western Cement Rates*, 201 (252).

## JOINT RATES.

Combination rates on Thebes, Ill., on rough gum lumber from Ohio, Ark., to Peru, Ill., originally billed to Cypress, Ill., but reconsigned at Thebes to Peru, Ill., found legally applicable and not shown unreasonable, as joint rate to Peru carried restrictions as to reconsigned shipments. *Webster v. St. L. S. W. Ry. Co.* 436 (437).

Contention that joint rate plus stop-off charge was applicable on certain portions of various carloads of lumber shipped from Louisville, Ky., to Detroit, Mich., there rejected, stored, and subsequently reshipped to East Cambridge, Mass., not sustained and charges assessed found legally applicable, as it was not established that shipment contained only lumber forwarded from Louisville, and reshipped from Detroit within 90 days. *Louisville Point Lumber Co. v. M. C. R. R. Co.* 699 (700).

## JURISDICTION.

With the exception of the relationship of rates from Libby, Mont., and Bonners Ferry, Idaho, to Montana destination, the rate relationship complained of is not subject to our jurisdiction. *Libby Lumber Co. v. G. N. Ry. Co.* 5 (6).

As the origin of certain tank cars of blackstrap molasses, switched from Heyl Bros' siding to complainant's siding, both in Philadelphia, Pa., is not shown, the Commission's jurisdiction respecting the rail movement of these shipments is not established. *Berg Distilling Co. v. P. R. R. Co.* 77 (78).

Power of Commission under the Act to Regulate Commerce. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (359).

Right to determine where certain cities or persons must transact their business is not lodged either with the carriers or the Commission. *Id.* (362).

The Congress has authorized the Commission to prescribe rates as maxima, not the precise rates to be applied, but the Commission's power as to classification is not thus restricted. *Id.* (369).

Complaint alleges that rates on lumber from Waldo, British Columbia, to points in North Dakota, are unduly prejudicial to the extent they exceed rates from Gateway, Mont., an intermediate point. Complaint dismissed. Commission's authority in connection with transportation to and from an adjacent foreign country is over that portion within the confines of the United States. *Good v. G. N. Ry. Co.* 435.

The Commission has held that it may consider the merits of a controversy submitted to it without first determining the question of its jurisdiction, but affirmative relief may only be granted when jurisdiction over the subject matter is definitely ascertained. *Lunham & Moore v. C. R. R. Co. of N. J.* 611 (612).

The power of the Commission to adjudicate complaints brought before it extends only to such acts or omissions of common carriers as are in contravention of the Act. (*Id.* (612)).

## LEAKAGE.

Claims presented for losses resulting from leakage through or over grain doors. *Claims for Loss and Damage of Grain*, 530 (545).

## LEGAL RATES.

Third-class rate on glucose paste, from New York, N. Y., to Atlanta, Ga., found legally applicable and not shown unreasonable as compared with rates on molasses. *Schlesinger v. C. of G. Ry. Co.* 413 (414).

**LEGAL RATES—Continued.**

Defendants will be expected to adjust in accordance with the legally applicable rates, certain undercharges and overcharges on pine lumber from points in Alabama, Mississippi, and Louisiana to Kittanning, Pa. *Terhune Lumber Co. v. G. & S. I. R. R. Co.* 433 (434).

Combination rate on Thebes, Ill., on rough gum lumber from Clio, Ark., to Peru, Ill., originally billed to Cypress, Ill., but reconsigned at Thebes to Peru, Ill., found legally applicable and not shown unreasonable, as joint rate to Peru carried restrictions as to reconsigned shipments. *Webster v. St. L. S. W. Ry. Co.* 436 (437).

Upon reconsideration, combination rate based on Kansas City, Mo., assessed on shipment of bulk corn from Homer, Nebr., to Joplin, Mo., found illegal. Reparation awarded on basis of joint through rate legally applicable. *King Elevator Co. v. C., B. & Q. R. R. Co.* 618 (620).

Rates assessed for return movement of flour from Branch and Fort Smith, Ark., to Lexington, Mo., found illegal to the extent they exceeded one-half the rate applicable in the opposite direction, subject to minimum rate of one-half of class D rate. Reparation awarded. *Lexington Flouring Mills v. M. P. Ry. Co.* 687 (688).

Joint through class rate applicable on machinery, assessed on shipment of scrap iron from Augusta, Ga., to Harrisburg, Pa., found illegal to the extent it exceeded commodity rate applicable on scrap iron. Reparation awarded. *Stein Junk Co. v. S. Ry. Co.* 703 (705).

Rates on machinery from Atlanta, Ga., to Harrisburg, Pa., found legally applicable and not shown unreasonable. *Id.* (705).

**LESS-THAN-CARLOAD.**

Failure to provide a peddler-car service on fresh meats, etc., in less than carloads, from Chicago, Ill., to points on the H. V. Ry. between Columbus and Gallipolis, Ohio, and from Chicago and East St. Louis, Ill., to points on the N. & W. Ry. between Cincinnati and Columbus, Ohio, and Naugatuck, W. Va., found unreasonable. Peddler-car service and maximum rates prescribed. *Swift & Co. v. P., O., C. & St. L. Ry. Co.* 525.

**LIKE KIND OF TRAFFIC.**

There is considerable difference in value and in weight between stock cattle and calves, and in some instances it may be difficult to determine whether the shipment is of one kind or the other, which difficulty is inherent in all adjustments where there are different rates on a commodity, or on commodities similar in appearance. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (291).

**LINE HAUL.**

The Commission has often recognized that somewhat higher joint rates are justified where two lines are involved than single-line rates from and to the same points. No case has been cited, and none has been found, where such a wide difference between single and two line rates as here exist has been sanctioned by the Commission. *Laird v. T. & N. Ry. Co.* 733 (736).

**LOADING.****In General:**

In actual practice loading must be performed in a manner satisfactory to inspectors of each road, and where delivery is made by one road to another the loading must be approved by inspectors of the receiving road. *Sand Point Lumber & Pole Co. v. N. P. Ry. Co.* 418 (420).

Cement: Average loading of cement in western trunk line territory, on the various roads for the year 1915, shown. *Western Cement Rates*, 201 (210).

**LOADING AND UNLOADING.**

Carriers are not responsible for losses or diversion of grain between scales and cars at loading and unloading points. *Claims for Loss and Damage of Grain*, 530 (543).

**LOANS.**

Money borrowed by the Wheeling & Lake Erie, and the Pittsburgh Terminal R. R. & Coal Co. *Wabash Pittsburgh Terminal Investigation*, 96 (131).

**LOCATION.**

The fact that a mill is located at a distance from important markets the location has presumably been selected advisedly and due consideration has been given to the question whether its remoteness from these markets is balanced by compensating economies not available nearer the destinations, can not be overlooked. *Western Cement Rates*, 201 (234).

Traffic from the south destined to Kittanning, Pa., on the west bank of the Allegheny River, necessitates a haul of about 113 miles more than to Kittanning on the east bank. *Terhune Lumber Co. v. G. & S. I. R. R. Co.* 433 (434).

**LONG AND SHORT HAUL.****In General:**

Authority sought under the fourth section by the all-rail lines to meet via their routes the rates proposed by the S. P. Co. from and to New York via its route through Galveston to and from Pacific coast ports denied. *Transcontinental Commodity Rates*, 79 (95).

Authority to continue to charge rates on petroleum and products from North Baton Rouge, La., and Wood River, Ill., to Kennedy, Ala., and other Alabama and Mississippi points, lower than to intermediate points, denied. *Standard Oil Co. (Ky.) v. Y. & M. V. R. R. Co.* 493 (495).

As rate now in effect on walnut logs from Jackson to Memphis, Tenn., has been found reasonable, higher rates in effect from and to intermediate points under fourth section authority may no longer be charged. Defendant will be expected to revise its tariffs accordingly. *Penrod, Jurden & McGowan v. M. & O. R. R. Co.* 496 (498).

Fourth section relief in connection with rates on lumber from points in Washington and Idaho taking Spokane rates to points in Kansas and Colorado granted in part. *Spokane Lumber Co. v. G. N. Ry. Co.* 627 (632, 633).

As the Frisco does not participate in rates on green coffee from New Orleans and Galveston to points in Oklahoma local to the Rock Island, the contention that defendants maintain a lower rate to Kingfisher, a local point on the Rock Island, to which Enid is intermediate, via the Frisco and connecting lines, is unfounded. *Alton Mercantile Co. v. I. C. R. R. Co.* 668 (669).

Authority to continue rates on green coffee, from New Orleans, La., and Galveston, Tex., to Enid, and Kingfisher, Okla., lower than to intermediate points, denied. *Id.* (670).

Authority to continue to charge rates on bulk salt from Lyons and Kanopolis, Kans., to Tulsa, Okla., lower than to intermediate points, denied. *Purity Ice Cream Co. v. A., T. & S. F. Ry. Co.* 684 (686).

*Andrews, N. C.*: Authority to continue to charge rates on chestnut extract wood from points on L. & N. R. R. in Georgia to Canton, N. C., lower than to Andrews, N. C., an intermediate point, denied. *Carolina Wood Products Co. v. S. Ry. Co.* 582 (586).

*Buffville, Kans.*: Authority to continue rates on common brick from Kansas City, Mo., to Brinkley, Ark., lower than rates contemporaneously in effect on like traffic from Buffville, Kans., and other intermediate points, denied. *Kansas Buff Brick & Mfg. Co. v. M. P. Ry. Co.* 473 (474).

**LONG AND SHORT HAUL—Continued.**

Dillon and Butte, Mont.: Permission to continue rates on sugar from California refineries to St. Paul, Minneapolis, and Minnesota Transfer, Minn., and Omaha, Nebr., which are lower than rates on like traffic to Dillon and Butte, Mont., and other intermediate points, granted. Butte Wholesale Grocery Co. v. B., A. & P. Ry. Co. 657 (661).

Houston and Houston Heights, Tex.: Authority to continue to charge rates on press cloth, from Houston and Houston Heights to New Orleans, La., Vicksburg, Miss., and Memphis, Tenn., lower than rates contemporaneously maintained on like traffic from or to intermediate points, denied. Oriental Textile Mills v. A. & V. Ry. Co. 31 (37).

Houston and Houston Heights, Tex.: Authority to continue to charge rates on press cloth, any quantity, from Houston and Houston Heights, Tex., to certain destinations lower than rates in effect on like traffic from or to intermediate points, denied. Id. (38).

Houston and Houston Heights, Tex.: Authority to maintain rates on press cloth from Houston and Houston Heights, Tex., to Evansville, Ind., Henderson, Ky., and other points via St. Louis and the L., H. & St. L., the same as via more direct routes, and to maintain higher rates to intermediate points on the L., H. & St. L. Ry., authorized conditionally. Id. (39).

McKenzie, Miss.: Authority to continue rates on cypress shingles from Natchez, and Vicksburg, Miss., to McKenzie, Tenn., which are lower than from McKenzie, Miss., and other intermediate points, denied. Mosby v. Y. & M. V. R. R. Co. 499 (500).

New Orleans, La.: Authority to continue to charge rates on hogs, cattle, and sheep from Milneberg, La., to Birmingham, Ala., lower than on like traffic from New Orleans, La., and other intermediate points, denied. Alabama Packing Co. v. A. G. S. R. R. Co. 596 (599).

San Francisco, Cal.: Authority to continue rates on live stock from points in Nevada, Utah, Oregon, New Mexico, and the S. P. Co.'s. Fernley branch in California to San Francisco, Cal., lower than rates to intermediate points denied. Roth-Blum Packing Co. v. S. P. Co. 470 (472).

Western trunk line territory: Fourth section relief granted at points intermediate to key points, provided that the scale rates herein prescribed are not exceeded at such intermediate points and that such rates are not in excess of the lowest combination. Western Cement Rates, 201 (237, 259).

**"LORENZ SCALES."**

Table of rates worked out by the statistician of the Commission for application in different portions of western trunk line territory, and known as. Western Cement Rates, 201 (209).

Chart showing territorial divisions originally suggested for application of. Id. (212).

Table showing the Lorenz scales for distances up to 1,200 miles, Id. (213).

Table 1 of Appendix: C., B. & Q. R. R., showing effect of rates in Lorenz scales and Universal group plan on business originated by each carrier. Id. (260).

**LOSS AND DAMAGE.**

Percentage relation of loss and damage claims to freight earnings on live stock is higher on state than on interstate movement, and the payments heavier on cattle than on other live stock. Shreveport-Texas Cattle, Lignite, Wood, and Tanbark, 283 (288).

Claims paid on account of personal injury and loss and damage to property of Texas railroads for the year 1914 aggregated 4.79 per cent of the railway operating revenues. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (343).

## LOSS AND DAMAGE—Continued.

Claims against carriers for the loss and damage of grain and grain products shipped in bulk and the regulations and practices observed in connection with the presentation, investigation, and adjustment of such claims, analyzed and discussed. Carriers and shippers given opportunity to agree upon rules and practices to be followed. Claims for Loss and Damage of Grain, 530.

Extent to which claims are filed. Id. (533).

Table illustrating the relation of claims filed to the grain traffic and revenues of certain lines for the month of October, 1915, on local shipments to named markets. Id. (533).

Practically all claims filed were for loss of grain in transit, and not for damage to the grain itself. Id. (534).

Conditions affecting the validity of claims—weights. Id. (537).

Record shows that inaccurate weighing prevails at country shipping points to an extent which impairs the credibility of unsupervised weights as a whole and which justifies careful inquiry into local conditions before accepting the claimed weights as correct. Id. (542).

Carriers are not responsible for losses or diversion of grain between scales and cars at loading and unloading points. Id. (543).

Provision in tariff of western carriers that when the carrier's liability is established there will be deducted from the weight of the grain lost one eighth of 1 per cent of the shipping weight on wheat, rye, oats, etc., and one fourth of 1 per cent on corn to cover shrinkage due to evaporation or other natural causes not found unreasonable. Id. (544).

Where claimants presenting doubtful claims were dissatisfied with the settlement, carriers have been threatened with the loss of traffic and in other instances traffic has been diverted to competing lines. Id. (552).

The device of giving to a particular shipper an advantage through the payment of a fictitious or excessive claim for loss or damage of property in transit effects the same unlawful results and carries with it the same penalties as departures or concessions from the published rates. Id. (568).

Shippers are entitled to information as to the manner in which shipments are handled by the carrier and to be advised of any losses or damage occurring in transit. Id. (571).

Average claimed losses per car shipped from country points are less than those between terminal markets. Id. (573).

Contention that the deduction of an arbitrary amount for natural shrinkage and unavoidable waste in transit is illegal and deprives the shipper of his property without due process of law, was fully considered and rejected in the *Crouch Grain Co. Case*, 41 I. C. C, 717. Id. (573).

As rails are practically indestructible, claims for loss and damage are almost nonexistent. *West Virginia Rail Co. v. C. & O. Ry. Co.* 600 (602).

Loss and damage claims on whisky, due to pilferage, are exceedingly heavy. *Tonies v. S. Ry. Co.* 681 (683).

## MANUFACTURED ARTICLES.

Fact emphasized that butter tubs afford repeated movements to the carriers, first of the staves from place of production to butter tub factory, then tubs from factory to creameries, and then as butter containers from creameries to points of consumption; *Held*, Argument not impressive, as butter tubs do not differ in this regard from most manufactured articles. *Wooden Package Rating*, 708 (711, 714).

## MAP.

Map of territory within which the distance scales found reasonable herein shall apply. *Western Cement Rates*, 201 (facing page 247).

**MAP—Continued.**

Showing railway lines in Texas differential territory and Texas common point territory. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (facing page 345).

Texas: Showing railway lines in Texas differential territory, Texas common point territory, lines outside of Texas, and the boundaries of class groups. *Southwestern Class Case*, 379 (facing page 381).

**MARKETS.**

The power and right to determine where certain cities or persons must transact their business is not lodged either with the carriers or the Commission. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (362).

Fact that increased ratings will curtail complainants' existing markets and reduce their profits does not control in determining the reasonableness of transportation rates. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (520).

**MEETING COMPETITION.**

Contention that the meeting of water competition by carriers at one point does not necessarily involve their meeting water competition to an identical degree at another destination; *Held*, While carriers may have an option in meeting water competition, they may not exercise this option to the undue prejudice of any locality. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (309).

**MEXICO.**

Local rates on shipments of lumber from Louisiana and eastern Texas to Eagle Pass, Tex., reconsigned to Mexico, but owing to embargo due to revolutionary conditions, shipments could not be forwarded within the transit period at through rate, not found unreasonable. Commission has repeatedly refused to give retroactive effect to transit service, unless to remove discrimination. *Eagle Pass Lumber Co. v. G., H. & S. A. Ry. Co.* 693 (694).

**MILEAGE RATES. See also DISTANCE SCALE.**

Table showing the Lorenz scales for distances up to 1,200 miles. *Western Cement Rates*, 201 (213).

**MILLING. See TRANSIT ARRANGEMENTS.****MINIMUM WEIGHT.****In General:**

Rules, ratings, and carload minima of the Texas classification do not in all instances result in direct discrimination against interstate traffic. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (337).

Carload minima prescribed by the Texas classification are in most instances lower than in western. *Id.* (338).

Shipment found to have been overcharged in weight, as a minimum of 40,000 pounds applied instead of 50,000 pounds. *Christopher & Simpson Iron Works Co. v. P. R. R. Co.* 697.

Cattle: Rates and carload minima prescribed in 41 I. C. C. 83, on beef and stock cattle between Shreveport and points in Texas, modified to provide stock cattle rates to market points and carload minima of 20,000 pounds and 16,000 pounds on stock cattle and on calves, respectively, and to grade the distance scale more closely. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (291-292).

Cement: A uniform minimum weight of 50,000 pounds prescribed for territory within the scope of this investigation, and if a lower minimum weight of 38,000 pounds is published, the rates given herein should be increased by 13 per cent. *Western Cement Rates*, 201 (248).

Lumber: Reduction in minimum weight resulted in increased rates. *Butters Lumber Co. v. A. C. L. R. R. Co.* 475 (476).

Oysters and shellfish: Carload and l. c. l. rates and minimum, applicable from St. Louis, Mo., to Fort Worth and Dallas, Tex., on, originating at Providence,

**MINIMUM WEIGHT—Continued.**

R. I., South Norwalk, Conn., and Bayshore, N. Y., and through rates from points of origin and destination, not shown unreasonable or unduly prejudicial in favor of Kansas City and St. Louis. *Producers Sales Co. v. N. Y., N. H. & H. R. R. Co.* 438 (440).

Peaches: Minimum weight on peaches from Utah points to various eastern destination, prior to September 10, 1914, found legally applicable and not shown unreasonable. *Roylance Co. v. D. & R. G. R. R. Co.* 429 (432).

Peaches: Contention by defendants, that minimum weight of 26,000 pounds was part of the specific commodity rate charged on shipments of peaches from points in Utah to various eastern destinations, sustained. *Id.* (430).

Potatoes: Upon rehearing, former finding as to minimum weight on potatoes from points in Minnesota to points in Official classification territory, modified in the light of additional evidence and a minimum of 30,000 pounds for the month of May prescribed as reasonable. *Northern Potato Traffic Asso. v. B. & O. R. R. Co.* 303 (306).

Wheat: Complainant requested an 80,000-pound capacity car and carrier furnished a 100,000-pound capacity car for shipment of wheat to New York for export. Bill of lading contained no notation that wheat was for export and domestic rate based on minimum of 60,000 pounds was assessed. Complaint dismissed. *Dewey Bros. Co. v. P., O., C. & St. L. Ry. Co.* 467.

**MISQUOTATION OF RATES.**

Misquotation of rate by carrier's agent affords no basis for an award of reparation.

*El Paso Iron & Metal Co. v. G., H. & S. A. Ry. Co.* 427.

**MISROUTING. See also UNAUTHORIZED MOVEMENT.**

On shipment of poles from Bayview, Idaho, to Whiting, Ind., specifically routed, agent of initial carrier inserted an additional road in the instructions, which road was not a party to tariff providing for the absorption of switching charges, resulting in misrouting. *Ewing & Co. v. S. I. Ry. Co.* 415 (417).

Carload of salt shipped from Rittman, Ohio, to Iron River, Mich., routed by way of "Mutual Transit Co.—N. P.," found to have been misrouted, as shipment should have moved via Green Bay, Wis. Refund directed. *Ohio Salt Co. v. B. & O. R. R. Co.* 423 (424).

Unrouted shipments of sand from West Tulsa, Okla., to Fairview and Wheaton Mo., found to have been misrouted and charges assessed found illegal to the extent they exceeded the combination on Wayne, Mo. Reparation awarded. *Richwood Lumber Co. v. St. L. & S. F. R. R. Co.* 485 (486).

Where a consignor specifies routing by a carrier which in connection with the originating line forms a through route from point of origin to destination, the initial carrier can not be charged with having misrouted the shipment if it bills it over that route instead of selecting a cheaper route in which those carriers participated, but with a third carrier intervening. *McCaull-Dinsmore Co. v. C., B. & Q. R. R. Co.* 507 (508).

Charges on shipment of hardwood lumber misrouted by S. Ry., from Andrews, N. C., to North Philadelphia, Pa., diverted to Coopers Point, N. J., found illegal to the extent that the combination rate assessed exceeded joint rate applicable over the route of movement and to the extent the joint rate exceeded the rate applicable via the cheapest route. Reparation awarded. *National Wholesale Lumber Dealers Asso. v. S. Ry. Co.* 679 (680).

**MIXED CARLOADS.**

Charges on mixed carload of bat guano and bones from El Paso, Tex., to Los Angeles, Cal., at carload rates and minimum weights applicable to each commodity not shown unreasonable. *El Paso Iron & Metal Co. v. G., H. & S. A. Ry. Co.* 427 (428).

**MULLER SCALE.**

Scale of rates introduced on behalf of the Iola Cement Mills Traffic Association known as the Muller scale. *Western Cement Rates*, 201 (219).

**NONAGENCY STATION.**

On shipment consigned to a nonagency station, carrier's agent was instructed to forward to destination without prepayment, if possible, otherwise, to bill to a point short of destination. At Bristol the Southern refused to accept because charges had not been prepaid, whereupon destination was changed to Bushnell, later reconsigned to Judson. Rate charged found legally applicable, although a lower through combination rate was in effect. *Western Carolina Lumber & Timber Asso. v. V. C. Ry. Co.* 445.

**NONJOINDER OF PARTIES. See PARTIES.****NOTES.**

Note transactions. *Wabash Pittsburgh Terminal Investigation*, 96 (128).

Statement of notes receivable and payable of the *Wabash Pittsburgh Terminal Ry. Co.* *Id.* (168).

**OPERATING CONDITIONS.**

*Wabash Pittsburgh Terminal. Wabash Pittsburgh Terminal Investigation*, 96 (120).

Transportation conditions in Texas compared with conditions in territory between Nebraska, Kansas, Oklahoma, and between Texas and Oklahoma. *Southwestern Class Case*, 379 (389).

**OPERATING COST.**

Present switching charges from Sheffield, Mo., to Kansas City, Kans., on crushed rock from Pixleys, Mo., are less than the operating cost and the increases proposed will not take care of the deficit. Proposed increased charges justified. *Crushed Rock from Pixleys, Mo.* 577 (580).

**ORDER OF COMMISSION.**

Order of July 7, 1916, requiring carriers to remove the undue prejudice against Shreveport, vacated in so far as it applies to lignite, cordwood, and tanbark. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (285).

Conceded that the Commission had jurisdiction to remove discrimination against interstate commerce by reason of discriminatory state rate, but that method for such removal prescribed and order of the Commission were beyond the necessities of the case. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (360).

**OUT-OF-LINE HAUL.**

Proposed cancellation of waiver of out-of-line haul charges on grain and products from Missouri River points to New Orleans and Mobile; and the effected cancellation of waiver of similar charges on like traffic moving under proportional rates to Gulf ports for export, found justified. *Grain Transit at Kansas Stations*, 59 (61).

**OVERCHARGE.**

Charges collected exceeded rate legally applicable. Reparation awarded. *Nappanee Lumber & Mfg. Co. v. B. & O. R. R. Co.* 13 (14).

Shipment overcharges 84 cents. *American Glue Co. v. B. & M. R. R.* 19.

Former finding that certain shipments of brick were not vitrified brick, and that charges assessed resulted in overcharges, reversed on rehearing. *Abel & Roberts v. M. P. Ry. Co.* 275 (276).

Charges based on unlawful rate and erroneous weight, on cottonseed meal from Eldorado, Ark., to Colfax, Wis., resulted in overcharges which should be refunded. *Rankin & Co. v. C., R. I. & P. Ry. Co.* 421 (422).

Defendants will be expected to adjust in accordance with the legally applicable rates, certain overcharges on pine lumber found to exist. *Terhune Lumber Co. v. G. & S. I. R. R. Co.* 433 (434).

**OVERCHARGE—Continued.**

Involved. *Western Carolina Lumber & Timber Assn. v. V. C. Ry. Co.* 445.

Shipment of cypress shingles from McKenzie, Miss., to McKenzie, Tenn., found overcharged to the extent charges exceeded those at rate legally applicable. Reparation awarded. *Mosby v. Y. & M. V. R. R. Co.* 499 (500).

Charges based on erroneous rate and weight should be adjusted properly. *Flanley Grain Co. v. C., St. P., M. & O. Ry. Co.* 505.

Charges collected on erroneous weight. Reparation awarded. *United Verde Copper Co. v. P. Co.* 663 (664).

Overcharges on flour from Fort Smith and Branch, Ark., to Lexington, Mo., ordered refunded with interest. *Lexington Flouring Mills v. M. P. Ry. Co.* 687 (688).

**PACKING.**

Proposed changes in the descriptions and packing requirements on shipments of kitchen cabinets and kitchen-cabinet tables, recommended by the uniform committee should be incorporated in the official classification. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (519).

**PAPER RATES.**

As no shingles are manufactured at Natchez or Vicksburg, Miss., the rates from these points to McKenzie, Tenn., were and are paper rates. *Mosby v. Y. & M. V. R. R. Co.* 499 (500).

There is no movement of cattle and hogs between New Orleans, La., and local stations such as Cullman, and increases in rates between such points will be mere paper increases. *Alabama Packing Co. v. A. G. S. R. R. Co.* 596 (598).

**"PAPER ROADS."**

Subsidiaries of the West Side Belt referred to as merely "paper roads." *Wabash Pittsburgh Terminal Investigation*, 96 (124). *Belt Line Railway Co. Id.* (149).

**PARTIES. See also DAMAGES.**

Allegations of unreasonableness and unjust discrimination not considered, as the necessary parties were not made defendants. *Smith & Co. v. S. Ry. Co.* 647.

**PARTS.**

Aggregate charges based on rate applicable to individual parts of a silo shipped from Nappanee, Ind., to Taylorsville, Ky., were lower than rate legally applicable to complete silo, resulting in undercharges. Complete silo rate found unreasonable and reasonable rate prescribed. Reparation awarded. *Nappanee Lumber & Mfg. Co. v. B. & O. R. R. Co.* 13 (15, 16).

**PEDDLER CARS.**

Rates on fresh meats and packing-house products from Cedar Rapids, Ia., to points east of Chicago, Ill., resulting from limitations of M. C. R. R.'s peddler-car tariff, found unreasonable to the extent they exceeded the lowest combination on the Mississippi River. As conclusions have been complied with no order is necessary. *Sinclair & Co. (Ltd.) v. C., M. & St. P. Ry. Co.* 295 (296).

Failure to provide a peddler-car service on fresh meats, etc., in less than carloads, from Chicago, Ill., to points on the H. V. Ry. between Columbus and Gallipolis, Ohio, and from Chicago and East St. Louis, Ill., to points on the N. & W. Ry. between Cincinnati and Columbus, and between Naugatuck, W. Va., found unreasonable. Peddler-car service and maximum rates prescribed. *Swift & Co. v. P., C., C. & St. L. Ry. Co.* 525.

The use of peddler cars in the distribution of fresh meats and packing-house products in less than carloads has become a well-settled practice in various sections of the United States. *Id.* (526).

**PHYSICAL CONNECTION.**

Upon complaint to enforce the construction of a physical connection between the tracks of the P., C., C. & St. L. Ry. and the Dayton & Union Railway

**PHYSICAL CONNECTION—Continued.**

at Union City, Ind.: *Held*, Commission's authority is limited to directing switch connections with lateral branch lines of railroad or with private side-tracks. *Montano v. P., C., C. & St. L. Ry. Co.* 728.

**PITTSBURGH & CARNEGIE R. R. CO.**

Detailed description of, and incidents of incorporation. *Wabash Pittsburgh Terminal Investigation*, 96 (99, 151).

**PITTSBURGH & MANSFIELD R. R. CO.**

History of incorporation. *Wabash Pittsburgh Terminal Investigation*, 96 (100).

**PITTSBURGH, CARNEGIE & WESTERN R. R. CO.**

Successor of Pittsburgh & Mansfield and Washington County Railroads. *Wabash Pittsburgh Terminal Investigation*, 96 (104).

**PITTSBURGH TERMINAL R. R. & COAL CO.**

Detailed description. *Wabash Pittsburgh Terminal Investigation*, 96 (148).

Comparative balance sheet statement, since cancellation of lease of properties to Pittsburgh Coal Co. *Id.* (176).

**PITTSBURGH, TOLEDO & WESTERN R. R. CO.**

History of incorporation. *Wabash Pittsburgh Terminal Investigation*, 96 (105).

**PITTSBURGH-TOLEDO SYNDICATE.**

Was the outgrowth of the desire of Andrew Carnegie and the Gould interest to have another road serve Pittsburgh. *Wabash Pittsburgh Terminal Investigation*, 96 (97).

**PLEADING AND PRACTICE.**

Method of procedure followed. *Western Cement Rates*, 201 (208).

**PORT-TO-PORT RATES.**

Authority sought under the fourth section by the all-rail lines to meet via their routes the rates proposed by the S. P. Co., from and to New York via its route through Galveston to and from Pacific coast ports denied. *Transcontinental Commodity Rates*, 79 (95).

**POWER OF COMMISSION. See JURISDICTION.****POWER OF CONGRESS. See CONGRESS.****PERCENTAGE RATES.**

Percentage relationship of rates under the various classes to the first-class rate. prescribed. *Southwestern Class Case*, 379 (395).

**PRECOOLING. See REFRIGERATION.****PREFERENCES AND PREJUDICES. See also DISCRIMINATION; STATE AND INTERSTATE.****In General:**

Complainants not shown to have been damaged by undue prejudice in the past. *Roth-Blum Packing Co. v. S. P. Co.* 470 (472).

Articles: Rails, old steel; Rates on old steel rails from Pittsburgh, Pa., to Huntington, W. Va., found unduly prejudicial to the extent they exceed rates contemporaneously in effect on new steel rails between the same points. *West Virginia Rail Co. v. P., C., C. & St. L. Ry. Co.* 675 (678).

Carload and l. c. l. traffic: Contention that by placing the entire burden of increases on less-than-carload traffic defendants prefer the large retail dealers to the undue prejudice of the small dealers not supported by evidence. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (523).

**Localities:**

Andrews, N. C.: With the new proportional rate from Murphy to Andrews, N. C., on extract wood from points in Georgia to Andrews, N. C., complainants contention of undue prejudice to Andrews in favor of Knoxville and Tellico Plains, Tenn., is not sustained. *Carolina Wood Products Co. v. S. Ry. Co.* 582 (586).

PREFERENCES AND PREJUDICES—Continued.

Localities—Continued.

- Baltimore, Md.: Charges at Baltimore, Md., for trimming bituminous coal in single-deck vessels, with hatch openings of certain sizes, not found unreasonable as compared with charges for similar services at Philadelphia, New York, and Norfolk. *Dougherty Co. v. B. & O. R. R. Co.* 407 (412).
- Belzoni, Miss.: Rate on hardwood lumber from Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., not found unduly prejudicial because it exceeded rate from Itta Bena, Miss. *Belzoni Hardwood Lumber Co. v. S. Ry. Co.* 665.
- Colfax, Wis.: Rate legally applicable on cottonseed meal from Eldorado, Ark., to Colfax, Wis., found not unreasonable or unduly preferential of Minneapolis, Minn., a more distant point to which a lower rate was applicable via another route. Refund of overcharge directed. *Rankin & Co. v. C., R. I. & P. Ry. Co.* 421 (422).
- Culver, Idaho: Rate on cedar poles on single cars or in conjunction with an "idler" car, from Culver, Idaho, to Twin Falls, Idaho, via Spokane, Wash., not found unduly prejudicial compared with rate from Coeur d'Alene, Idaho. *Sand Point Lumber & Pole Co. v. N. P. Ry. Co.* 418 (420).
- Enid, Okla.: Rates on green coffee from New Orleans, La., to Enid, Okla., not found unreasonable or unduly prejudicial to Enid in favor of Oklahoma City, Okla. *Alton Mercantile Co. v. I. C. R. R. Co.* 668 (670).
- Fort Worth and Dallas, Tex.: Carload and l. c. l. rates, and carload minimum on oysters and other shellfish, applicable from St. Louis, Mo., to, originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y., and through rate from origin to destination, not shown unduly prejudicial in favor of Kansas City and St. Louis. *Producers Sales Co. v. N. Y., N. H. & H. R. R. Co.* 438 (440).
- Helena, Ark.: Rates on potatoes from Minnesota, Wisconsin, Wyoming, and Colorado points to Helena, Ark., found unduly prejudicial to Helena in favor of Memphis, Tenn. Reasonable rates prescribed. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (311).
- Helena, Ark.: Defendants' rules permitting cotton to be concentrated at Pine Bluff, Ark., and reshipped to Boston, Mass., and points basing thereon, at the through rate applicable from points of origin to destination, found unduly prejudicial to Helena, and unduly preferential of Pine Bluff, Ark. *Business Men's League of Helena, Ark. v. St. L., I. M. & S. Ry. Co.* 490 (492).
- Honaker, Va., etc.: Except for the discrimination found to exist on different kinds of lumber, the rates on lumber from points on the N. & W. to points in Pennsylvania and other points not found unduly prejudicial to points of origin as compared with rates from Charleston, W. Va. *Honaker Lumber Co. v. N. & W. Ry. Co.* 715 (723).
- Houston and Houston Heights, Tex.: Rates on press cloth from Houston and Houston Heights, Tex., to points in central freight association and western trunk line territories and points in the southeast not found unreasonable or unduly prejudicial as compared with rates from New York and other points. Complaint dismissed. *Oriental Textile Mills v. A. & V. Ry. Co.* 31 (34, 36).
- Huntington, W. Va.: Rates on interstate shipments of light steel rails from Huntington, W. Va., to points on N. & W. Ry. in West Virginia and Virginia, certain of which were prescribed in 26 I. C. C., 622, not found unduly prejudicial to Huntington, W. Va., or unduly preferential of Cumberland,

## PREFERENCES AND PREJUDICES—Continued.

## Localities—Continued.

- Md., Newark, Ohio, and other points. *West Virginia Rail Co. v. C. & O. Ry. Co.* 600 (610).
- Hutchinson, Kans.: Elimination by respondents of waiver of out-of-line charges on wheat from Missouri River to Hutchinson for milling and reshipment to New Orleans and Mobile not found unduly prejudicial to Hutchinson in favor of Wichita, Kans. *Grain Transit at Kansas Stations* 59 (61).
- Imperial Valley, Cal.: Maintenance of lower rates on cotton-seed cake and cotton-seed meal from points in Oklahoma to points in Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, than from points in the Imperial Valley to the same destinations not found to result in undue prejudice. *National Wool Growers' Asso. v. B. G. R. R. Co.* 587 (589).
- Libby, Mont.: Relationship between the rates on lumber from Libby, Mont., and Bonners Ferry, Idaho, to Montana destinations not found unduly prejudicial to Libby in favor of Bonners Ferry. *Libby Lumber Co. v. G. N. Ry. Co.* 5 (7).
- Louisiana points: Rates on lumber from Junks Spur, Sondheimer, and other Louisiana points to Thebes, Ill., not shown unreasonable or prejudicial as compared with rates via Memphis. *Sondheimer Co. v. St. L., I. M. & S. Ry. Co.* 457 (460).
- McKenzie, Miss.: Rates legally applicable on cypress shingles from McKenzie, Miss., to McKenzie, Tenn., not found unreasonable or unduly prejudicial to McKenzie, Miss., in favor of Natchez and Vicksburg, Miss., more distant points. *Mosby v. Y. & M. V. R. R. Co.* 499 (500).
- Mayfield, Ky.: Local scale of rates from Paducah, Ky., to Mayfield, Ky., used as a component of the joint through class rate from points in trunk line territory to Mayfield not found unreasonable, but to be unduly prejudicial to Mayfield in favor of Paducah to the extent it exceeds the relationship prescribed herein. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.* 45 (57).
- Mayfield, Ky.: Rate factor from Mayfield, Ky., to Paducah, Ky., of the through rate on unmanufactured tobacco in hogsheads to points in trunk line territory, which exceeds by more than 2 per cent the rate factor from Paducah to Mayfield, not found unreasonable or unduly prejudicial. *Id.* (46, 58).
- Mitchell, S. Dak.: Proportional class rates required in original report to be established from the Mississippi River to Mitchell, S. Dak., on traffic originating in eastern territory will remove the unreasonableness and undue prejudice existing against Mitchell in favor of Sioux City and Sioux Falls, and is therefore affirmed on reargument. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 40 (44).
- Montana points: Rates on sugar from California refineries to certain points in Montana not shown unduly prejudicial in favor of farther distant points in the Dakotas to St. Paul, Minn., and grouped points and to Missouri River points. *Butte Wholesale Grocery Co. v. B., A. & P. Ry. Co.* 657 (660).
- New Orleans, La.: Complaint alleging undue prejudice by reason of the maintenance of lower rates on excelsior to New Orleans, La., from Enterprise, Miss., than from New Orleans to Hattiesburg, Miss., and other points dismissed. *Carrollton Excelsior & Fuel Co. v. N. O. & N. E. R. R. Co.* 464 (465).
- North Carolina points: Transportation of sewer pipe from Chattanooga, Tenn., to points in North Carolina and the intrastate transportation within

## PREFERENCES AND PREJUDICES—Continued.

## Localities—Continued.

- North Carolina not shown to be performed under similar conditions. Finding in 41 I. C. C. 406, that the North Carolina intrastate rates subject complainant and its traffic and the city of Chattanooga to undue prejudice reversed on further hearing. *Chattanooga Sewer Pipe & Fire Brick Co. v. S. Ry. Co.* 642 (646).
- Northern Illinois points: Rates on sand and gravel from points in northern Illinois to points in Wisconsin not found unreasonable or unduly prejudicial to northern Illinois points in favor of Beloit and Janesville, Wis. *American Sand & Gravel Co. v. C. & N. W. Ry. Co.* 1 (4).
- Official Classification Territory: Allegation that ratings on kitchen cabinets and tables in, gives an undue preference to manufacturers located at points in western, southern, and Illinois classification territories by reason of lower ratings not sustained. *Showers Bros. Co. v. A. A. R. R. Co.* 518 (523).
- Paducah, Ky.: Damages necessary to justify an award of reparation where rates on yellow-pine lumber from points in Louisiana and Mississippi to Metropolis, Ill., and Paducah, Ky., have been found to be unduly prejudicial in favor of Cairo, Ill., not shown. *Enochs & Wortman v. I. C. R. R. Co.* 443.
- Pennsylvania points: Except for the unjust discrimination found to exist in the maintenance of different rates on different kinds of lumber from the same originating points, rates to Reading and Philadelphia, not shown to be unduly prejudicial to points in central Pennsylvania, north of Harrisburg. *Honaker Lumber Co. v. N. & W. Ry. Co.* 715 (727).
- San Francisco, Cal.: Present parity of rates on live stock from the same points to San Francisco and to Oakland, Cal., not shown to unduly prefer the former or unduly prejudice the latter. *Roth-Blum Packing Co. v. S. P. Co.* 470 (472).
- Shreveport, La.: Rates on cattle in carloads between Shreveport and points in Texas found unduly prejudicial to Shreveport in so far as they exceed rates for like distances between points in Texas. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (292).
- Shreveport, La.: Relationship which was authorized and required by the Texas Commission and which accorded Galveston somewhat lower rates for certain distances and higher rates for other distances than Houston, has not been shown to result in undue prejudice to Shreveport. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (358).
- Shreveport, La.: Contention that as the commerce of Shreveport is relatively small compared with that of the entire state of Texas, any undue prejudice against Shreveport should be removed by extending to Shreveport the classification and rate basis applicable in Texas, not sustained. *Id.* (360).
- Shreveport, La.: Interstate carriers, by the maintenance of lower intrastate rates than interstate rates, subject Shreveport, Shreveport shippers, and interstate commerce to undue prejudice. *Id.* (366).
- Shreveport, La.: Maintenance of higher class rates on commodities named herein between Shreveport and points in Texas than are maintained on like property for like distances between points in Texas would result in undue prejudice to Shreveport. *Id.* (368).
- Shreveport, La.: Rates under suspension are unduly prejudicial to the protestants and localities represented in so far as the proposed method of arriving at distances which determine the rate differential differs from the method prescribed in the *Shreveport Case*, 41 I. C. C. 83. *Southwestern Class Case*, 379 (395).

## PREFERENCES AND PREJUDICES—Continued.

## Localities—Continued.

Tulsa, Okla.: Rates on coconuts and pineapples from New Orleans, La., to Tulsa, Okla., found unduly prejudicial to Tulsa and unduly preferential of Muskogee, Okla., and Joplin, Mo. *Tulsa Traffic Association v. A., T. & S. F. Ry. Co.* 731 (732).

Utah and Idaho points: Rates on fir lumber from certain points on the Astoria division of the S., P. & S. Ry. to points on defendants' lines in Idaho and Utah, not shown unreasonable, but found unduly prejudicial to extent they exceed the rates applicable on fir lumber from points on the O. W. R. R. & N. Co. in Washington to same destinations. *Astoria Box Co. v. S., P. & S. Ry. Co.* 481 (484).

## Persons:

Refusal of the New York Central to make an allowance to the Lorain & Southern of more than \$2.07 per car on and after May 1, 1916, not shown to have been or to be unduly prejudicial to complainant. *Ohio Cut Stone Co. v. N. Y. C. R. R. Co.* 69 (74).

Undue prejudice to the Ohio Quarries Co., found in *Lorain & Southern R. R. Co. Case*, 37 I. C. C. 497, to have existed on and after April 1, 1914, not shown to have damaged complainant, and reparation denied. *Id.* (74).

The mere fact that in compromise settlements more may be paid to one claimant than to another where each files claims on substantially the same number of defective cars and the loading and unloading weights are ascertained in substantially the same manner does not necessarily indicate unlawful discrimination or undue preference. *Claims for Loss and Damage of Grain*, 530 (561).

Charge for switching carload shipments of grain arriving at Butte, Mont., over the O. S. L. destined to complainants' industries which are located in the "lower yard" in addition to the line haul rate not found unduly preferential in favor of complainant's competitors whose industries are situated in the "upper yard." *Beebe Grain Co. v. B., A. & P. Ry. Co.* 623 (626).

Carriers refusal to switch inbound and outbound cars to and from convenient points on switch track serving quarries of complainant, while performing a similar service for complainant's competitors found to result in undue prejudice. Refusal to make an allowance found unreasonable and reparation awarded. *Westport Stone Co. v. C., C., C. & St. L. Ry. Co.* 637 (639).

PREPAY STATION. *See* NONAGENCY STATION.

PROCEDURE. *See* PLEADING AND PRACTICE.

PROFIT. *See* MARKETS.

## PROFIT AND LOSS.

Comparative income and profit and loss statements, corporate account. *Wabash Pittsburgh Terminal Investigation*, 96 (158).

Comparative income and profit and loss statements, receiver's account. *Id.* (162).

Comparative income and profit and loss statements, of the *Wheeling & Lake Erie R. R. Co.*, and *West Side Belt R. R. Co.*, corporate account. *Id.* (171, 180).

Comparative income and profit and loss statement. *Wheeling & Lake Erie R. R. Co.*, receiver's account. *Id.* (174).

Comparative income and profit and loss statement, *Pittsburgh Terminal R. R. & Coal Co.* *Id.* (175).

Comparative income and profit and loss statement, *West Side Belt R. R. Co.*, receiver's account. *Id.* (184).

**PROOF.**

A mere comparative statement of charges, unsupported by a showing of the conditions under which they are maintained, can not be accepted as proof that the switching charges here proposed are unreasonable. *Crushed Rock from Pixleys, Mo.*, 577 (580).

Claim for reparation on shipment of emigrant movables, from Boswell, Okla., to Clarksville, Ark., dismissed for want of proof. *Stephens v. St. L. & S. F. R. R. Co.* 649.

**PROPORTIONAL RATES.**

Proportional class rates required in original report to be established from the Mississippi River to Mitchell, S. Dak., on traffic originating in eastern territory will remove the unreasonableness and undue prejudice existing against Mitchell, in favor of Sioux Falls and Sioux City, and is therefore affirmed on reargument. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 40 (44).

In view of the dissimilar circumstances and conditions, comparisons of the proposed increased proportional rates on live stock from Nashville, Tenn., to Ohio River crossings with earnings on dead freight, and with rates to other points for similar distances, fall short of proving the reasonableness of the proposed rates. *Live Stock from Nashville, Tenn.*, 277 (278).

That portion of the haul beyond the river crossings, on through traffic from Nashville, Tenn., subject to the C. F. A. scale rates, may properly be somewhat less than the local rates and should bear a reasonable relation to the total through charges. *Id.* (281).

Proportional rate on elevator guides from East Burlington, Ill., to Denver, Colo., on shipments originating at East Buffalo, N. Y., found unreasonable to the extent it exceeded proportional rate applicable on structural iron and steel, approved in 36 I. O. C. 86. *Otis Elevator Co. v. N. Y. C. R. R. Co.*, 487 (489).

**PURPOSE OF ACT.**

One of the primary purposes of the act was to protect the small shipper from undue prejudice. *Shreveport-Texas Cattle, Lignite, Wood, and Tanbark*, 283 (290).

Duties imposed upon carriers subject to the Act to Regulate Commerce. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (359).

**RAIL AND WATER RATES. See also WATER AND RAIL RATES.**

Comparative statement showing all-rail and rail-and-water class rates from New York, N. Y., to Paducah and Mayfield, Ky. *Mayfield & Graves County Commercial Club v. B. & O. R. R. Co.*, 45 (46).

Authority sought by rail-and-water lines through Galveston to increase rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports in California to the Atlantic seaboard to the level of the all-rail rates on the same commodities granted. *Transcontinental Commodity Rates*, 79 (95).

Authority sought under the fourth section by the all-rail lines to meet via their routes the rates proposed by the S. P. Co. from and to New York via its route through Galveston to and from Pacific coast ports denied. *Id.* (95).

**RATE WALL.**

The only apparent reason for the exclusion of Shreveport from equal opportunities for trading in Texas, thus in effect building a tariff wall about the state, is that Shreveport lies east instead of west of the line between Texas and Louisiana, 312 (371).

**REARGUMENT.**

Proportional class rates required in original report to be established from the Mississippi River to Mitchell, S. Dak., on traffic originating in eastern territory will remove the unreasonableness and undue prejudice existing against Mitchell in favor of Sioux Falls and Sioux City, and is therefore affirmed on

**REARGUMENT—Continued.**

reargument. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.*, 40 (44).

Statement in original report of the existing rate on live poultry from Mitchell, S. Dak., to New York, N. Y., found to be in error to the extent that the 2d class rating provided in Western trunk line exceptions was used in arriving at the existing rate, and the original report is hereby modified to this extent. *Id.* (41).

**REBATE.** *See CONCESSION.*

**RECEIVERSHIP.**

Of Wabash Pittsburgh Terminal Co. *Wabash Pittsburgh Terminal Investigation*, 96 (97).

Appointment of receivers for the Terminal company. *Id.* (136).

Receivers' certificates issued in order to safely operate the property. *Id.* (137).

Of the Wheeling & Lake Erie R. R. Co. *Id.* (145).

**RECONSIGNMENT.**

Combination rates on Thebes, Ill., on rough gum lumber from Clio, Ark., to Peru, Ill., originally billed to Cypress, Ill., but reconsigned at Thebes to Peru, found legally applicable and not shown unreasonable as joint rate to Peru carried restrictions as to reconsigned shipments. *Webster v. St. L. S. W. Ry. Co.*, 436 (437).

Charges on a carload of baled hay from Fort Jennings, Ohio, originally consigned to Glenside, Pa., with instructions to hold at Montrose, Ontario, but not forwarded on account of an embargo, and then reconsigned to Paterson, N. J., not shown unreasonable. *Woolman & Co. v. T., St. L. & W. R. R. Co.*, 441.

On shipment consigned to a nonagency station, carrier's agent was instructed to forward to destination without prepayment if possible, otherwise to bill to a point short of destination. At Bristol the Southern refused to accept because charges had not been prepaid, whereupon destination was changed to Bushnell, later reconsigned to Judson. Tariff did not provide for reconsignment at through rate and rate charge found legally applicable. *Western Carolina Lumber & Timber Asso. v. V. C. Ry. Co.*, 445.

Rate on oak staves from Harrison, Ark., to Dupu, Ill., reconsigned to New York, N. Y., not found unreasonable compared with rate subsequently established through error. *Hollingshead & Blei Co. (Inc.) v. M. & N. A. R. R. Co.*, 449.

Combination rate on oak lumber from Little Rock, Ark., originally consigned to Cypress, Ill., stopped in transit at Thebes, Ill., and reshipped to Minneapolis, Minn., found legally applicable. *Fullerton-Powell Hardwood Lumber Co. v. St. L. S. W. Ry. Co.*, 468.

Reconsigning charge assessed at Madison, Wis., on a carload of hay from Augusta, Wis., to Chicago, not shown unreasonable, as record does not show when the reconsigning instructions were given. *Union Hay Co. v. C. & N. W. Ry. Co.*, 691 (692).

**REDUCTION IN RATES.**

By carriers:

Rate applicable to l. c. l., shipment of silo material from Nappanee, Ind., to Arnold, Ky., found unreasonable to the extent it exceeded combination rate subsequently established. Reparation awarded. *Nappanee Lumber & Mfg. Co. v. B. & O. R. R. Co.*, 13 (15).

Rates on fresh meats and packing-house products from Cedar Rapids, Ia., to points east of Chicago, Ill., resulting from limitations of the M. C. R. R.'s peddler car tariff, found unreasonable to the extent they exceeded the lowest combination on the Mississippi River. As conclusions have been complied with, no order is necessary. *Sinclair & Co. (Ltd.) v. C., M. & St. P. Ry. Co.* 295 (296).

## REDUCTION IN RATES—Continued.

## By carriers—Continued.

Rating of third class on l. c. l. shipments of condensed and evaporated milk from Philadelphia, Pa., Rising Sun, Md., and other points to points in official classification territory found unreasonable to the extent they exceeded rating of 20 per cent less than third class contemporaneously applicable on l. c. l. shipments. Reparation awarded. *Sharpless Co. v. P., B. & W. Ry. Co.* 425 (426).

Rates on pine lumber, from points in Louisiana, Mississippi and Alabama to Kittanning, Pa., on the west bank of the Allegheny, not found unreasonable to the extent they exceeded rates to Pittsburgh, made applicable to Kittanning on the west bank, over certain routes while shipments were en route. *Terhune Lumber Co. v. G. & S. I. R. R. Co.* 433 (434).

Second class rates on mattresses from Sugarland, and Houston, Tex., to Chicago, Ill., and St. Joseph, Mo., not shown to have been unreasonable as compared with commodity rates from the Dallas-Fort Worth Group and subsequently established between points involved herein. *Sealy Mattress Co. v. S. L. Ry. Co.* 447 (448).

Rate on common brick from Buffville, Kans., to Brinkley, Ark., found unreasonable to the extent it exceeded rate subsequently established. Reparation awarded. *Kansas Buff Brick & Mfg. Co. v. M. P. Ry. Co.* 473 (474).

Rates on gasoline and petroleum oil, in tank cars from North Baton Rouge, La., and Wood River, Ill., to Kennedy, Ala., found unreasonable to the extent they exceeded rates subsequently established. Reparation awarded. *Standard Oil Co. (Ky.) v. Y. & M. V. R. R. Co.* 493 (494).

Rates on walnut logs, from Jackson, Tenn., and Aberdeen, Miss., to Memphis, Tenn., found unreasonable to the extent they exceeded rates subsequently established. Reparation awarded. *Penrod, Jurden & McCowen v. M. & O. R. R. Co.* 496 (497).

Rates legally applicable on wool in the grease from Ellison and Winnemucca, Nev., to Smoot and Provo, Utah, found unreasonable to the extent the component from Ellison and Winnemucca to Salt Lake City exceeded rates subsequently established. Reparation awarded. *Knight Woolen Mills v. D. & R. G. R. R. Co.* 501 (504).

Mere voluntary reduction of a rate is insufficient to justify a finding that the prior rate was unreasonable. *Flanley Grain Co. v. O., St. P., M. & O. Ry. Co.* 505 (506).

Rate on imported black-strap molasses in tank cars, valued in excess of 8 cents per gallon, from New Orleans, La., to Orange, Tex., found unreasonable to the extent it exceeded rate of 16½ cents subsequently established on imported molasses regardless of value. Reparation awarded. *Orange Rice Mill Co. v. T. & N. O. R. R. Co.* 673 (674).

Rates on artificial stone from St. Louis, Mo., to Drumright, Okla., found unreasonable to the extent that the factor from Cushing to Drumright exceeded the rate subsequently established. Reparation awarded. *Algonite Stone Mfg. Co. v. A., T. & S. F. Ry. Co.* 689 (690).

Rates on wooden rollers from Baton Rouge, La., to Gilman, Mont., found unreasonable to the extent that factor from Minnesota Transfer, Minn., to Gilman, Mont., exceeded rate subsequently established. Reparation awarded. *Boorman-Power Lumber & Implement Co. v. C., R. I. & P. Ry. Co.* 695 (696).

Rates on peanut oil, in tank cars from Marshall, Dallas, and other Texas points to Ivorydale, Ohio, found unreasonable to the extent they exceeded subsequently established rate. Reparation awarded. *Proctor & Gamble Co. v. A. G. S. R. R. Co.* 701 (702).

## REDUCTION IN RATES—Continued.

## By Commission:

- Finding that rate of 23 cents per 100 pounds on iron and steel articles from Cincinnati, Ohio, to Chattanooga, Tenn., was unreasonable to the extent it exceeded 19 cents, affirmed on rehearing. *Casey-Hedges Co. v. C., N. O. & T. P. Ry. Co.* 8 (12).
- Charges on silo, material, l. c. l., from Nappanee, Ind., to Taylorsville, Ky., should have been collected on basis of rate legally applicable to complete silo. Complete silo rate found unreasonable and reasonable rate prescribed. Reparation awarded. *Nappanee Lumber & Mfg. Co. v. B. & O. R. R. Co.* 13 (16).
- Joint rates applicable on press cloth, from Houston Heights to Meridian, Miss., and other points in the Mississippi Valley, found unreasonable to the extent they exceed the aggregate of intermediate rates contemporaneously maintained. *Oriental Textile Mills v. A. & V. Ry. Co.* 31 (33, 34).
- Rate on forest products, from Canalou, Mo., to Thebes, Ill., destined beyond, found unreasonable and reasonable rate prescribed. Reparation denied. *Brown Stave Co. v. St. L. & S. F. R. R. Co.* 75 (76).
- Rates on potatoes from Minnesota, Wyoming, Wisconsin and Colorado points to Helena, Ark., found unduly prejudicial to Helena in favor of Memphis, Tenn. Reasonable relationship prescribed. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (311).
- Combination of local rates on cement from Chanute, Kans., to Zion and Macksburg, Iowa, found unreasonable to the extent they exceed distance scale authorized in 48 I. C. C., 201, applicable in this territory. *Sunderland Bros. Co. v. A., T. & S. F. Ry. Co.* 377 (378).
- Local or proportional rates on lumber from Whiteville, Lake Waccamaw, and Boardman, N. C., to Norfolk and Pinners Point, Va., and to points north thereof, found unreasonable to the extent they exceed the aggregate of intermediate rates to and from Drum Hill or Gates, N. C. Reparation awarded. *Butters Lumber Co. v. A. C. L. R. R. Co.* 475 (478).
- Fifth-class rate and minimum weight of 30,000 pounds assessed and present commodity rate based on minimum of 20,000 pounds on secondhand empty beer bottles, from Socorro, N. Mex., to El Paso, Tex., found unreasonable to the extent they exceeded rate of 16 cents minimum 20,000 pounds. Reparation awarded. *El Paso Iron & Metal Co. v. A., T. & S. F. Ry.* 479 (480).
- Proportional rates on elevator guides from East Burlington, Ill., to Denver, Colo., on shipments originating at East Buffalo, N. Y., found unreasonable to the extent they exceeded proportional rate applicable on structural iron and steel, approved in 36 I. C. C. 86. *Otis Elevator Co. v. N. Y. C. R. R. Co.* 487 (489).
- Through charges on chestnut extract wood from points on the L. & N. R. R. in Georgia to Andrews, N. C., found unreasonable to the extent that component from Murphy to Andrews, N. C., exceeded 60 cents per cord. Reparation awarded. *Carolina Wood Products Co. v. S. Ry. Co.* 582 (586).
- Rates on cattle and hogs from New Orleans, La., to Birmingham, Ala., found unreasonable to the extent that shipments via the L. & N. R. R. exceeded the combination of intermediate rates based on Gentilly, La., and shipments via Meridian, Miss., exceeded proposed rate. Reparation awarded. *Alabama Packing Co. v. A. G. S. R. R. Co.* 596 (599).
- Rates on lumber from points in Washington and Idaho taking Spokane rates to points in Colorado and Kansas found unreasonable and reasonable rates prescribed. Fourth section relief granted in part. *Spokane Lumber Co. v. G. N. Ry. Co.* 627 (631).

**REDUCTION IN RATES—Continued.****By Commission—Continued.**

Local rate from Memphis, Tenn., to Mobile, Ala., on shipments of oats from Blanket, Tex., found unreasonable to the extent it exceeded reshipping rate, applicable only when reshipping certificate was executed. Reparation awarded and local rate ordered reduced to equal reshipping rate with no restrictions. *Pittman & Harrison Co. v. Ft. W. & R. G. Ry. Co.* 671 (672).

Rates on rock salt from Lyons and Kanopolis, Kana., to Tulsa, Okla., found unreasonable and reasonable rates prescribed. *Purity Ice Cream Co. v. A., T. & S. F. Ry. Co.* 684 (686).

Rates on lumber from points on the N. & W. in Virginia and West Virginia to points in Pennsylvania, New Jersey, and other states found unreasonable and unjustly discriminatory to the extent they exceed rates on oak, spruce, and hemlock lumber. *Honaker Lumber Co. v. N. & W. Ry. Co.* 715 (727).

Rates on coconuts and pineapples from New Orleans, La., to Tulsa, Okla., found unreasonable and unduly prejudicial to the extent they exceed by more than 5 cents the rates to Muskogee, Okla., and Joplin, Mo. Reasonable rates prescribed. *Tulsa Traffic Asso. v. A., T. & S. F. Ry. Co.* 731 (732).

Rates on live stock from Tabor, Iowa, to South Omaha, Nebr., found unreasonable to the extent they exceeded by more than 2 cents per 100 pounds the rates from Malvern, Iowa. *Laird v. T. & N. Ry. Co.* 733 (737).

**REFRIGERATION. See also ICING.**

Defendants' rule that standard refrigeration charges will be assessed on carload shipments of precooled vegetables in iced refrigerator cars, initially iced by the shipper and tendered with instructions not to be reiced in transit, not found to be unreasonable. *Unit Marketing System v. St. L., B. & M. Ry. Co.* 510 (514).

No basis for an assumption that where carriers offer to provide a refrigeration service which is reasonably well adapted to the particular traffic involved, a shipper may elect to perform a part of the service for himself and thereby secure a lower rate than that which the carrier has established for the entire service, and which is available to the majority of shippers. *Id.* (514).

**REFUSED SHIPMENT.**

Shipment of 100 cases of varnish remover to Kansas City, Mo., was refused by original consignee and placed in storage. Contention that storage charges assessed while in defendant's warehouse were unreasonable to the extent they exceeded charges assessed by public warehouse, not sustained. *Wilson Remover Co. v. C., M. & St. P. Ry. Co.* 453.

**REHEARING.**

Finding that rate of 23 cents per 100 pounds on iron and steel articles from Cincinnati, Ohio, to Chattanooga, Tenn., was unreasonable to the extent it exceeded 19 cents, affirmed on rehearing. *Casey-Hedges Co. v. C., N. O. & T. P. Ry. Co.* 8 (12).

In 34 I. C. C. 388, rate of 34 cents per 100 pounds on yellow-pine lumber and articles taking same rates, from Texas and Louisiana points to Las Cruces, N. Mex., found unreasonable and reasonable rate prescribed. Upon rehearing 34-cent rate found reasonable. *Bascom-French Co. v. A., T. & S. F. Ry. Co.* 62 (64).

Finding in original report, 24 I. C. C. 297, that complainant is entitled to reparation on shipments of lumber from Texas and Louisiana points to Las Cruces, N. Mex., adhered to upon rehearing. *Bascom-Porter Co. v. A., T. & S. F. Ry. Co.* 65 (66).

**REHEARING – Continued.**

Former findings that certain shipments of brick were not vitrified brick, and that charges assessed resulted in overcharges, reversed on rehearing. *Abel & Roberts v. M. P. Ry. Co.* 275 (276).

Upon rehearing, former finding as to minimum weight on potatoes from points in Minnesota to points in official classification territory modified in the light of additional evidence and a minimum of 30,000 pounds for the month of May prescribed as reasonable. *Northern Potato Traffic Asso. v. B. & O. R. R. Co.* 303 (306).

Order prescribing reasonable maximum class rates and rates on certain commodities between Shreveport, La., and points in Texas, of July 7, 1916, modified. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (369).

Original complaint alleging that certain shipment of corn from Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans., were misrouted, not sustained. Amended complaint filed on rehearing alleged through rate was unreasonable to extent component north of Omaha exceeded intrastate rate applicable from Sheldon to Council Bluffs; *Held*, Upon rehearing shipments not misrouted and rates not shown unreasonable, prejudicial, or discriminatory. *McCaull-Dinsmore Co. v. C., B. & Q. R. R. Co.* 507.

Upon reconsideration, combination rate based on Kansas City, Mo., assessed on shipment of bulk corn from Homer, Nebr., to Joplin, Mo., found illegal. Reparation awarded on basis of joint through rate legally applicable. *King Elevator Co. v. C., B. & Q. R. R. Co.* 618 (620).

Transportation of sewer pipe from Chattanooga, Tenn., to points in North Carolina, and the intrastate transportation within North Carolina not shown to be performed under similar conditions. Finding in 41 I. C. C. 406, that the North Carolina intrastate rates subject complainant and its traffic and the city of Chattanooga to undue prejudice reversed on further hearing. *Chattanooga Sewer Pipe & Fire Brick Co. v. S. Ry. Co.* 642 (646).

Upon further hearing, rates on coconuts and pineapples from New Orleans, La., to Tulsa, Okla., found unreasonable and unduly prejudicial to the extent they exceed by more than 5 cents the rates contemporaneously in effect to Muskogee, Okla., and Joplin, Mo. *Tulsa Traffic Asso. v. A., T. & S. F. Ry. Co.* 731 (732).

**RE-ICING.** See **REFRIGERATION.**

**RELATIONSHIP OF RATES.**

Present relationship between the rates on lumber, from Libby and Bonners Ferry, to Montana destinations, not found unduly prejudicial to Libby in favor of Bonners Ferry. *Libby Lumber Co. v. G. N. Ry. Co.* 5 (7).

The question presented here is largely one of the relationship of the rates between shipping points in Texas and Oklahoma to destinations in the Texas panhandle. *Cottonseed Products to Texas*, 297 (301).

**RELATIVE RATES.**

**In General:**

Rates per ton-mile, which may be compensatory in one section of the country and under given conditions, are not necessarily compensatory for transportation of similar commodities in other sections of the country by other carriers and under different conditions. *National Wool Growers' Asso. v. B. G. R. R. Co.* 587 (588).

**California refineries:** Rates on sugar from California refineries to Montana points compared with rates from refineries at Billings, Mont., Eaton, Greeley, and Fort Collins, Colo., and Grand Island, Nebr., to the Dakotas, St. Paul, and Missouri River points. *Butte Wholesale Grocery Co. v. B., A. & P. Ry. Co.* 657 (659).

**Joplin, Mo.:** Rate on whisky, in glass and in wood, in mixed carloads, from Louisville, Ky., to Joplin, Mo., via St. Louis, not shown unreasonable to

## RELATIVE RATES—Continued.

## In General—Continued.

extent they exceed rates from Louisville to Kansas City, Mo., via Thebes, Ill. *Tonies v. S. Ry. Co.* 681.

Louisiana points: Rates on lumber from Junk's Spur, Sondheimer, and other Louisiana points to Thebes, Ill., not shown unreasonable compared with rates from Dermott and other points in Arkansas. *Sondheimer Co. v. St. L., I. M. & S. Ry. Co.* 457 (460).

New Orleans, La.: Comparison of rates on sugar from New Orleans, La., to Atlanta with rates from New Orleans for equal distances in various directions. *The Southeastern Sugar Cases*, 739 (752).

Northern Illinois points: Transportation and commercial competition governs the rates and differentials established on a zone basis from northern Illinois and Wisconsin points to Chicago, which are not shown to exist on traffic from northern Illinois points to Wisconsin points. *American Sand & Gravel Co. v. C. & N. W. Ry. Co.* 1 (2, 4).

Oklahoma points: The mere fact that lower rates are maintained from Memphis to various points and between points in Arkansas and Oklahoma on shipments to Kansas City and other points north of Oklahoma, is no proof that the proposed rates from Oklahoma points to the Texas panhandle are unreasonable. *Cottonseed Products to Texas*, 297 (301).

Texas points: Comparative statement showing distance, present and proposed rates and rates for similar distances prescribed in 41 I. C. C., 83, on cottonseed products from points in Oklahoma to points in the Texas panhandle. *Cottonseed Products to Texas*, 297 (299).

Tulsa, Okla.: Rates on rock salt from Lyons and Kanopolis, Kans., to Tulsa, Okla., found unreasonable as compared with rates to Oklahoma City, Okla. Reasonable rates prescribed. *Purity Ice Cream Co. v. A., T. & S. F. Ry. Co.* 684 (686).

Western trunk line territory: Rates on woodenware in, compared with rates in C. F. A. territory. *Wooden Package Rating*, 708 (710).

## RELEASED RATES.

Ratings on soap in containers other than glass or earthenware, any quantity, in southern classification, dependent upon the value of the soap, declared in writing by the shipper, which were in effect when the Cummins amendment of August 9, 1916, was approved, and not authorized or required to be maintained by order of the Commission, are unlawful. *Williams Co. v. H. & N. Y. T. Co.* 269.

The Commission can not fairly or effectively differentiate between released rates and rates based on actual value, for the reason that carriers have no knowledge of the actual value except as declared by the shipper. *Id.* (274).

Rate on imported black-strap molasses in tank cars, valued in excess of 8 cents per gallon from New Orleans, La., to Orange, Tex., found unreasonable to the extent it exceeded rate of 16½ cents subsequently established on imported molasses regardless of value. Reparation awarded. *Orange Rice Mill Co. v. T. & N. O. R. R. Co.* 673 (674).

## RENTAL.

Added expense caused by the change in the per diem rate for use of foreign freight cars. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (327).

Amounts paid by Texas roads for rent of equipment and hire of freight cars exceeded amounts received. *Id.* (343).

REPARATION. *See DAMAGES.*REPEATED MOVEMENTS. *See MANUFACTURED ARTICLES.*

## RESOLUTION.

Requesting investigation into affairs of the Wabash Pittsburgh Terminal Ry. Co. *Wabash Pittsburgh Terminal Investigation*, 96 (199).

**RESTORED RATES.**

In 34 I. C. C., 388, rate of 34 cents per 100 pounds on yellow-pine lumber and articles taking same rates, from Texas and Louisiana points to Las Cruces, N. Mex., found unreasonable and reasonable rate prescribed. Upon rehearing 34-cent rate found reasonable. *Bascom-French Co. v. A., T. & S. F. Ry. Co.* 62 (64).

**RETROACTIVE.**

Local rates on shipments of lumber from Louisiana and eastern Texas to Eagle Pass, Tex., reconsigned to Mexico, but owing to an embargo due to revolutionary conditions shipments could not be forwarded within the transit period at through rate, not found unreasonable. Commission has repeatedly refused to give retroactive effect to transit service unless to remove discrimination. *Eagle Pass Lumber Co. v. G., H. & S. A. Ry. Co.* 693 (694).

**RETURN MOVEMENT.**

Rates assessed for return movement of flour from Branch and Fort Smith, Ark., to Lexington, Mo., found illegal to the extent they exceeded one-half the rate applicable in the opposite direction, subject to minimum rate of one-half of class D rate. Reparation awarded. *Lexington Flouring Mills v. M. P. Ry. Co.* 687 (688).

**REVENUE.**

Statistics relative to tonnage and revenue, etc. *See APPENDIX.* *Western Cement Case*, 201.

**REVERSAL.**

Former findings that certain shipments of brick were not vitrified brick, and that charges assessed resulted in overcharges, reversed on rehearing. *Abel & Roberts v. M. P. Ry. Co.* 275 (276).

**REVOLUTIONARY CONDITIONS.** *See EMBARGO.***ROUTING.**

Charges on shipment of hardwood lumber misrouted by S. Ry., from Andrews, N. C., to North Philadelphia, Pa., diverted to Cooper's Point, N. J., found illegal to the extent the combination rate assessed exceeded joint rate applicable over the route of movement and to the extent the joint rate exceeded the rate applicable via the cheapest route. Reparation awarded. *National Wholesale Lumber Dealers Asso. v. S. Ry. Co.* 679 (680).

**ROUTING INSTRUCTIONS.** *See MISROUTING.***RULES AND REGULATIONS.**

Rules and regulations limiting the application of M. C. R. R.'s peddler car tariff to certain points resulted in charges on fresh meats and packing-house products from Cedar Rapids, Ia., to points east of Chicago, Ill., which were unreasonable. As conclusions have been complied with, no order is necessary. *Sinclair & Co. (Ltd.) v. C., M. & St. P. Ry. Co.* 295 (296).

**SCALE OF RATES.** *See also "LORENZ SCALE"; "MULLER SCALE"; MILEAGE SCALE.*

Chart showing similarity between Lorenz scale I and C. F. A. cement scale. *Western Cement Rates*, 201 (215).

Table showing the Universal Co.'s group rate average in comparison with the Universal and Lorenz distance scales. *Id.* (218).

Table showing the scale of rates known as the Muller scale. *Id.* (219).

Order prescribing class rates for transportation of property between Shreveport and Texas interstate common-point territory, modified, and scale of rates prescribed. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (345).

**SCALES.**

Results of tests made of scales used for weighing grain. *Claims for Loss and Damage of Grain*, 530 (538, 541).

Used by country elevators described. *Id.* (540).

**SECTION 1.**

Construed as to the authority of the Commission to order the construction of a switch connection. *Montano v. P., C. O. & St. L. Ry. Co.* 728 (729).

**SECTION 3.**

Although the act has been amended and revised many times during the past 30 years, this section has remained unchanged since its enactment in 1887. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (362).

Section 3 is broad enough to include any undue prejudice to one description of traffic, including interstate commerce, and undue preference of another description of traffic, that interferes with the free movement of such interstate commerce, whatever form the discrimination may take. *Id.* (363).

**SECTION 10.**

By section 10 of the act to regulate commerce and section 1 of the Elkins act severe penalties are enforceable against a shipper for knowingly making misstatements with intent to defraud, and equally severe penalties are provided against carriers who "knowingly and willingly assist" or "willingly suffer or permit" shippers to obtain payment of fraudulent claims. *Claims for Loss and Damage of Grain*, 530 (568).

**SECTION 13.**

Provides that "no complaint shall at any time be dismissed because of the absence of direct damage to the complainant." *Producers Sales Co. v. N. Y., N. H. & H. R. R. Co.* 438 (440).

**SECTION 15. See also APPLICATION.**

Construed as to suspension of classifications and schedules and filing of increased rates for approval. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (337).

Proposal that rates be made substantially upon the basis of certain low ton-mile revenues by way of short lines disregards the limitation of the Commission's power over through routes as defined in section 15. *National Wool Growers' Asso. v. B. G. R. R. Co.* 587 (589).

Upon complaint that defendant's refusal to make allowance for switching and weighing service performed by complainant on traffic from its plant to point of interchange with defendant's line at Wiggins, Miss., is unreasonable and in violation of section 15; *Held*, Refusal to reimburse, not found unreasonable and that in the absence of unjust discrimination defendant was under no obligation to perform the service. *Finkbine Lumber Co. v. G. & S. I. R. R. Co.* 705 (707).

**SECTION 20. See CUMMINS AMENDMENT.****SECURITIES.**

Case illustrates the great need for control of security issues and emphasizes the wisdom of the Commission's requirement, that the charges to the accounts reflecting the carriers' investment in road and equipment shall be based upon the cash cost of the property. *Wabash Pittsburgh Terminal Investigation*, 96 (144).

**SHORT LINES. See INDUSTRIAL RAILWAYS.****SHRINKAGE.**

Practices of different carriers with respect to making a deduction for natural shrinkage and waste of grain. *Claims for Loss and Damage of Grain*, 530 (544).

Contention that the deduction of an arbitrary amount for natural shrinkage and unavoidable waste in transit is illegal and deprives the shipper of his property without due process of law was fully considered and rejected in the *Crouch Grain Co. Case*, 41 I. C. C. 717. *Id.* (573).

On a weight of 60,000 pounds shrinkages of 60 or 70 pounds on wheat, and 120 pounds on oats and barley, are normal and not indicative of inaccurate weighing or losses in transit. *Id.* (573).

**"SKIDDING."**

Defined as to cargo coal. *Dougherty Co. v. B. & O. R. R. Co.* 407 (409).

**SPREAD IN RATES.**

Spread in the present rates between Memphis, Tenn., and Helena, Ark., on potatoes from points in Minnesota, Wyoming, Wisconsin, and Colorado found unduly prejudicial to Helena in favor of Memphis, and reasonable relationship prescribed. *Helena Traffic Bureau v. M. P. Ry. Co.* 307 (311).

Some difference in rates on potatoes from Minnesota and Wisconsin points to Memphis, Tenn., a point served by 11 carriers and where actual water competition exists, and Helena, Ark., a point served by branch lines, at which water competition is largely potential, justified, but the present spread found unduly prejudicial to Helena, and reasonable relationship prescribed. *Id.* (310).

Actual water competition at Memphis, Tenn., and potential water competition at Helena, Ark., does not warrant the present spread in rates between Memphis and Helena, Ark. *Id.* (310).

**STATE AND INTERSTATE. See also JURISDICTION.**

So long as the relationship between the rates from Libby and Columbia Falls, Mont., to Montana destinations does not exceed the differential prescribed in 38 I. C. C. 268, the matter is not subject to the Commission's jurisdiction. *Libby Lumber Co. v. G. N. Ry. Co.* 5 (6).

Rates on cattle in carloads between Shreveport and points in Texas found unduly prejudicial to Shreveport in so far as they exceed rates for like distances between points in Texas. *Shreveport-Texas Cattle, Lignite, Wood, and Tankbark*, 283 (292).

As the average haul interstate greatly exceeds the average haul intrastate, the assignment of expenses on state and interstate freight traffic upon the basis of the number of tons hauled 1 mile is without justification. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (325).

Prosperity enjoyed by roads operating in differential territory is not due to revenue derived from intrastate traffic hauled to, from, or between points in differential territory, but principally to interstate traffic. *Id.* (334).

Unless there is considerable difference in character between interstate and intrastate freight, there is no foundation for any claim that interstate freight traffic on these roads is paying less than its proportionate share. *Id.* (335).

Conceded that the Commission had jurisdiction to remove discrimination against interstate commerce by reason of discriminatory state rate, but that method prescribed for such removal and order of the Commission were beyond the necessities of the case. *Id.* (360).

Interstate carriers, by the maintenance of lower intrastate rates than interstate rates, subject Shreveport, Shreveport shippers, and interstate commerce to undue prejudice. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (366).

Rates established by the Texas commission are not the proper measure of reasonable rates to be applied on interstate shipments, nor afford an appropriate standard for the removal of the undue prejudice found to exist. *Id.* (367).

Maintenance of higher class rates on commodities named herein between Shreveport and points in Texas than are maintained on like property for like distances between points in Texas would result in undue prejudice to Shreveport. *Id.* (368).

Maintenance by interstate carriers of the two divergent systems of rates inevitably tended to restrain and interfere with the free movement of interstate commerce between Shreveport and Texas points. *Id.* (371).

There are no transportation conditions justifying higher rates, distance considered, between Shreveport and Texas points than between points in Texas. *Id.* (371).

Factor of combination rate from Hospers to Council Bluffs, Iowa, on shipment of bulk corn to Atchison, Kans., not found unreasonable or prejudicial because

**STATE AND INTERSTATE—Continued.**

it exceeded rate applicable on intrastate traffic, which was subsequently made applicable to interstate traffic. *Flanley Grain Co. v. O., St. P., M. & O. Ry. Co.* 505.

Through rate on corn from Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans., not shown unreasonable or prejudicial to the extent that the factor north of Omaha, Nebr., and Council Bluffs, Iowa, exceeded the intrastate rate applicable from Sheldon to Council Bluffs. *McCaull-Dinamore Co. v. C., B. & Q. R. R. Co.* 507 (509).

Through charges on chestnut extract wood from points on L. & N. R. R. in Georgia to Andrews, N. C., found unreasonable to the extent that the component North Carolina class rate from Murphy to Andrews, N. C., exceeded 60 cents per cord. Reparation awarded. *Carolina Wood Products Co. v. S. Ry. Co.* 582 (586).

Transportation of sewer pipe from Chattanooga, Tenn., to points in North Carolina and the intrastate transportation within North Carolina not shown to be performed under similar conditions. Finding in 41 I. C. C. 406, that the North Carolina intrastate rates subject complainant and its traffic and the city of Chattanooga to undue prejudice reversed on further hearing. *Chattanooga Sewer Pipe & Fire Brick Co. v. S. Ry. Co.* 642 (646).

Contended that by application of class C rates on interstate shipments of wooden pails and tubs, etc., while leaving intrastate rates on the class D basis will result in unjust discrimination; *Held*, Instances cited do not clearly indicate the extent of such discrimination or whether they would result in unlawful prejudice to shippers in interstate commerce. *Wooden Package Rating*, 708 (712, 713).

**STATE LAW.**

Under the laws of Minnesota all elevator companies doing business as public warehousemen are required to render a report of the business transacted each year. *Claims for Loss and Damage of Grain*, 530 (563).

**STATION COSTS.**

Finding that station costs of \$1.77 per ton for handling l. c. l. traffic includes but one handling of the freight, and not for both receiving and delivering such traffic as contended, sustained upon rehearing. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (320).

Costs at stations selected in Louisiana or Oklahoma are not altogether representative of similar costs in Texas. *Id.* (330).

**STOPPAGE IN TRANSIT.**

Combination rate on oak lumber from Little Rock, Ark., originally consigned to Cypress, Ill., stopped in transit at Thebes, Ill., and reshipped to Minneapolis, Minn., found legally applicable. *Fullerton-Powell Hardwood Lumber Co. v. St. L. S. W. Ry. Co.* 468.

Contention that joint rate plus stop-off charge was applicable on certain portion of various carloads of lumber shipped from Louisville, Ky., to Detroit, Mich., there rejected, stored, and subsequently reshipped to East Cambridge, Mass., not sustained, and charges assessed found legally applicable as it was not established that shipment contained only lumber forwarded from Louisville and reshipped from Detroit within 90 days. *Louisville Point Lumber Co. v. M. C. R. R. Co.* 699 (700).

**STORAGE CHARGES.**

Contention that storage charges assessed on 100 wooden cases of varnish remover in cans in defendant's warehouse at Kansas City, Mo., were unreasonable to extent they exceeded charges made by the public warehouse not sustained, except during a certain period that shipment was held unnecessarily in defendant's warehouse. *Wilson Remover Co. v. C., M. & St. P. Ry. Co.* 453.

**STORAGE CHARGES—Continued.**

Contention that joint rate plus stop-off charge was applicable on certain portion of various carloads of lumber shipped from Louisville, Ky., to Detroit, Mich., there rejected, stored, and subsequently reshipped to East Cambridge Mass., not sustained, and charges assessed found legally applicable, as it was not established that shipment contained only lumber forwarded from Louisville, and shipped from Detroit within 90 days. *Louisville Point Lumber Co. v. M. C. R. R. Co.* 699 (700).

**SUBSEQUENTLY ESTABLISHED RATES.** *See* REDUCTION IN RATES (By Carriers).

**SUSPENSION.**

Section 15 construed as to suspension of classification and schedules and filing of increased rates for approval. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (337).

**SWITCH CONNECTION.** *See* PHYSICAL CONNECTION.

**SWITCHING.** *See also* ALLOWANCES; INDUSTRIAL SWITCHING.

Charges on imported blackstrap molasses in tank cars from defendant's wharf to complainant's siding, both in Philadelphia, Pa., not shown unreasonable. *Berg Distilling Co. v. P. R. R. Co.* 77 (78).

Order of the Texas commission respecting the switching rates from Texand to points in Waco and the relationship between the rates on sand and gravel from Texand and points within the switching limits of Waco should not be disregarded. *R. R. Comm. of La. v. A. H. T. Ry. Co.* 312 (350).

Proposed increased charges on crushed rock from Pixleys, Mo., to points in the switching district of Kansas City, Kans., resulting from proposed increased switching charges from Sheffield, Mo., to Kansas City, Kans., found justified. *Crushed Rock from Pixleys, Mo.* 577 (581).

A mere comparative statement of charges, unsupported by a showing of the conditions under which they are maintained, can not be accepted as proof that the switching charges here proposed are unreasonable. *Id.* (580).

Where interest and taxes are borne by the tenant lines those items can not be disregarded in determining the reasonableness of the switching charges. *Id.* (580).

Charge for switching carload shipments of grain arriving at Butte, Mont., over the O. S. L. destined to complainant's industries which are located in the "lower yard" in addition to the line haul rate, not found unduly preferential in favor of complainant's competitors. *Beebe Grain Co. v. B., A. & P. Ry. Co.* 623 (626).

Carrier's refusal to switch inbound and outbound cars to and from convenient points on switch tracks serving quarries of complainant while performing a similar service for complainant's competitors found to result in undue prejudice. Refusal to make an allowance found unreasonable and reparation awarded. *Westport Stone Co. v. C., C., C. & St. L. Ry. Co.* 637 (639).

Upon complaint that defendant's refusal to make allowance for switching and weighing service performed by complainant on traffic from its plant to point of interchange with defendant's line at Wiggins, Miss., is unreasonable and in violation of section 15; *Held*, Refusal to reimburse not found unreasonable, and that in the absence of unjust discrimination defendant was under no obligation to perform the service. *Finkbine Lumber Co. v. G. & S. I. R. R. Co.* 705 (707).

**SWITCHING DISTRICT.**

Buffington, Ind., is within the limits of the Chicago switching district, and distances from and to Buffington should be calculated upon the basis of distances from and to Chicago. *Western Cement Case*, 201 (244).

**SYSTEM.**

The Kansas City Terminal Railway, although a separate corporation independently operated, is, in a practical sense, a joint facility of the 12 tenant trunk lines that own it. Crushed Rock from Pixleys, Mo., 577 (579).

**TANK CARS.**

Switching charges on imported blackstrap molasses in tank cars from defendant's wharf to complainant's siding both in Philadelphia, Pa., not shown unreasonable. Berg Distilling Co. v. P. R. R. Co. 77 (78).

Rate on imported blackstrap molasses in tank cars, valued in excess of 8 cents per gallon, from New Orleans, La., to Orange, Tex., found unreasonable to the extent it exceeded rate of 16½ cents subsequently established on imported molasses regardless of value. Reparation awarded. Orange Rice Mill Co. v. T. & N. O. R. R. Co. 673 (674).

**TARIFF INTERPRETATION.**

In sustaining defendant's contention that minimum weight of 28,000 pounds was part of the specific commodity rate charged on shipments of peaches from points in Utah to various eastern destinations, the Commission finds that the above minimum weight was legally applicable to shipments moving prior to September 10, 1914. Roylance Co. v. D. & R. G. R. R. Co. 429 (430, 432).

**TARIFF PROVISION.**

Contention that tariff description reading "bars (with head, eye, or screw threads)" signifies that it includes all kinds of bars, including those without head, eye, or screw threads, not sustained. Christopher & Simpson Iron Works Co. v. P. R. R. Co. 697.

**TARIFFS.**

Demurrage charges assessed at Long Island City on shipment of hay consigned to Bushwick Station, L. I., but held at Long Island City, a point short of billed destination, on account of the declaration of an embargo while the shipments were in transit, found to have been assessed without tariff authority. Reparation awarded. Schaeffer & Son v. L. I. R. R. Co., 25 (30).

Rules and regulations limiting the application of M. O. R. R.'s peddler cartariff to certain points resulted in charges on fresh meats and packing-house products from Cedar Rapids, Iowa, to points east of Chicago, Ill., which were unreasonable. As conclusions have been complied with, no order is necessary. Sinclair & Co. (Ltd.) v. O. M. & St. P. Ry. Co. 295 (296).

Contention by defendants that cancellation of group 5 joint rates applicable on lumber from Fullerton, La., to Kansas and Nebraska points, was effected by supplemental tariff effective January 31, 1915, not sustained. Refund of the difference between the illegal combination assessed and joint rates legally applicable authorized. Gulf Lumber Co. v. G. & S. R. R. R. Co., 461 (462).

Rates on mine cars from Youngstown, Ohio, to Clarksdale, Ariz., found illegal to the extent they exceeded the lower of the conflicting rates in effect. Reparation awarded. United Verde Copper Co. v. P. Co. 663 (664).

Proposed restrictions in defendant's tariff which would prevent the application of through rates on petroleum and products over the Santa Fe line from points in Oklahoma to various destination, except where both point of origin and destination are on Santa Fe., not found justified. Schedules ordered canceled. Petroleum from Oklahoma Points, 737 (738).

**TARIFF WALL. See RATE WALL.****TAXES.**

Taxes paid during 1914 and 1915 by Texas roads. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (343).

Where interest and taxes are borne by the tenant lines, those items can not be disregarded in determining the reasonableness of the switching charges. Id. (580).

**TENANT LINES.**

The Kansas City Terminal Railway, although a separate corporation independently operated, is, in a practical sense, a joint facility of the 12 tenant trunk lines that own it. Crushed Rock from Pixleys, Mo. 577 (579).

**TEXAS CLASSIFICATION.**

Rules, ratings, and carload minima of the Texas classification do not in all instances result in direct discrimination against interstate traffic. R. R. Comm. of La. v. A. H. T. Ry. Co. 312 (337).

**THROUGH AND LOCAL.**

. Joint rates applicable on press cloth, from Houston Heights, Tex., to Meridian, Miss., and other points in the Mississippi Valley, found unreasonable to the extent they exceed the aggregate of intermediate rates contemporaneously maintained. Oriental Textile Mills v. A. & V. Ry. Co. 31 (33, 34).

Authority to continue joint rates on lumber from Whiteville, Lake Waccamaw, and Boardman, N. C., to Norfolk and Pinners Point, Va., and to points north thereof, which exceed the aggregate of intermediate rates, denied. Butters Lumber Co. v. A. C. L. R. R. Co. 475 (478).

Authority to continue rates on walnut logs from Jackson, Tenn., and Aberdeen, Miss., to Memphis, Tenn., which are higher than the aggregate of the intermediate rates, denied. Penrod, Jurden & McCowen v. M. & O. R. R. Co. 496 (498).

Rates on cattle and hogs from New Orleans, La., to Birmingham, Ala., via L. & N. R. R., found unreasonable to the extent they exceed the combination of intermediate rates based on Gentilly, La. Reparation awarded. Alabama Packing Co. v. L. & N. R. R. Co. 596 (599).

**THROUGH RATES.**

Reparation denied as a result of the failure to attack the through rate, instead of the component from Canalou, Mo., to Thebes, Ill. Brown Stave Co. v. St. L. & S. F. R. R. Co. 75 (76).

Proposed restrictions in defendant's tariff which would prevent the application of through rates on petroleum and products over the Santa Fe line from points in Oklahoma to various destinations, except where both point of origin and destination are on Santa Fe., not found justified. Schedules ordered canceled. Petroleum from Oklahoma Points, 737 (738).

**THROUGH ROUTES.**

Proposal that rates be made substantially upon the basis of certain low ton-mile revenues by way of short lines, disregards the limitation of the Commission's power over through routes as defined in section 15. National Wool Growers' Asso. v. B. G. R. R. Co. 587 (589).

By order of the Director General, issued December 29, 1917, carriers are required to provide and to use through routes regardless of line ownership, wherever increased transportation efficiency can thereby be secured. Petroleum from Oklahoma Points, 737 (738).

**THROUGH ROUTES AND JOINT RATES.**

Carriers should establish through routes and joint rates via all reasonably available direct lines. Western Cement Rates, 201 (249).

**TON-MILE REVENUE.****In General:**

Rates per ton per mile, which may be compensatory in one section of the country and under given conditions, are not necessarily compensatory for transportation of similar commodities in other sections of the country by other carriers and under different conditions. National Wool Growers' Asso. v. B. G. R. R. Co. 587 (588).

Fruit and vegetables: Ton-mile revenue on, for distances of 154 and 261 miles, shown. Oklahoma-Texas Commodities 266 (267).

